



**U.S. Citizenship  
and Immigration  
Services**

July 31, 2020

**COW2019501574 and  
COW2019501598**

Austin Evers  
American Oversight  
1030 15<sup>th</sup> St NW, Suite B255  
Washington D.C. 20005

Dear Austin Evers:

This is a response to your Freedom of Information Act/Privacy Act (FOIA/PA) request received in this office relating to the following:

Any final policies, procedures, protocols, instructions or guidance regarding the transfer of responsibility for credible fear interview from asylum officers within USCIS to law enforcement agents within CBP.

Enclosed is the first production of responsive records, which consists of 524 pages of records. We have reviewed and have determined to release all information except those portions that are exempt pursuant to 5 U.S.C. § 552 (b)(6), (b)(7)(C) and (b)(7)(E) of the FOIA.

Exemption (b)(6) permits the government to withhold all information about individuals in personnel, medical and similar files where the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. The types of documents and/or information we have withheld may consist of birth certificates, naturalization certificates, drivers' licenses, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.

Exemption (b)(7)(C) provides protection for personal information in law enforcement records, which could reasonably be expected to constitute an unwarranted invasion of personal privacy. We have withheld information relating to third-party individuals. The types of documents and/or information we have withheld could consist of names, addresses, identification numbers, telephone numbers, fax numbers, or various other documents that are considered personal.

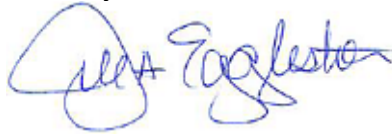
Exemption (b)(7)(E) provides protection for records or information for law enforcement purposes which would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. The types of documents and/or information we have withheld could consist of law enforcement systems checks, manuals, checkpoint locations, surveillance techniques, and various other documents.

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Additionally, during our review we located 88 pages that originated with another government agency. We have referred those referred pages to Customs and Border Protection for its direct response to you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jill A. Eggleston". The signature is fluid and cursive, with the first name "Jill" and last name "Eggleston" clearly distinguishable.

Jill A. Eggleston  
Director, FOIA Operations



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**Congress of the United States**  
**Washington, DC 20515**

Honorable Kevin McAleenan  
Acting U.S. Secretary of Homeland Security  
Department of Homeland Security  
Washington, D.C. 20528

**RECEIVED**

**By ESEC at 2:16 pm, May 23, 2019**

Dear Acting Secretary McAleenan,

From President Trump's inaugural address in January 2017, to the legislative proposal issued from the White House last week, it is plainly clear the President is seeking a solution to both long term immigration issues and the current crisis on our southern border. The Department of Homeland Security (DHS) can and should be doing more to support the President. We strongly urge you to take action.

Recent DHS statistics on the number of arrivals at our southern border are clear proof that what is currently being done, is not enough. Just two weeks ago Carla Provost, Chief of U.S. Border Patrol, testified to the Senate Subcommittee on Border Security and Immigration that, "As of March 31, 2019, 361,087 migrants have been apprehended between the points of entry (POEs) in Fiscal Year (FY) 2019, representing a 108 percent increase over the same time in FY 2018." That is not counting the 109,144 immigrants detained by Customs and Border Protection in April. As you know, the number of border-crossers apprehended in April exceeded 100,000 for the second month in a row. Current projections are that more than 1 million people will have crossed our southern border illegally this year. Our constituents, the American public, are confounded as to why more is not being done by your Department.

As the President continues to show leadership on this issue, we strongly encourage you to exercise the same manner of enthusiasm for fixing this crisis. Included in this letter are proposals that would undoubtedly slow the surge at the border and provide context for long term immigration solutions.

**1. Train Border Patrol to conduct credible fear interviews.**

As proposed in the Presidential Memorandum of April 29, 2019, the Department of Homeland Security has established a pilot program to train U.S. Border Patrol agents to conduct credible fear interviews. This program should be expanded so every Border Patrol station has resources to conduct interviews before aliens are released and prevent unnecessary release of individuals who do not qualify for asylum.

- a. How many Border Patrol Agents are currently trained to conduct credible fear interviews?

- b. What is the status of current training and how many Border Patrol Agents are in training currently?
- c. What is the anticipated timeline for training all Border Patrol Agents to conduct credible fear interviews?
- d. How many credible fear interviews have been conducted by Border Patrol Agents this fiscal year?
- e. What have been the outcomes of credible fear interviews conducted by Border Patrol Agents?

## **2. Limit ICE Parole Policy.**

ICE policy directive 11002.1 issued December 8, 2009 exploits 8 C.F.R. § 212.5(b), which allows for case-by-case parole of certain aliens whose “continued detention is not in the public interest.” ICE has used this category to release thousands of illegal aliens, many of whom likely do not qualify for asylum. The ICE policy directive should be immediately repealed and 8 C.F.R. § 212.5(b) should be amended to exclude the public interest category.

- a. Have you directed the Acting ICE Director to rescind the current ICE parole policy for aliens determined to have credible fear immediately?
- b. If not, when do you anticipate that order being issued?
- c. If you have already directed the Acting ICE Director to rescind the current parole policy, what is the current status within ICE for rescinding and when is the final action anticipated?

## **3. Limit Work Authorization.**

8 U.S.C. § 208(d) allows for the Attorney General to grant employment authorization to asylum applicants who have waited longer than 180 days for their case to be adjudicated. Statute does not however require employment authorization to be granted. Given that asylum cases are taking years to adjudicate, guaranteed access to employment authorization is serving as a huge pull-factor for migrants, contributing to the current crisis-level numbers. 8 C.F.R. § 1274a.12(c)(8), which **requires** an asylum applicant to apply for employment authorization should be immediately repealed and employment authorization should be granted only to aliens whose asylum applications have been approved.

- a. When can we expect the NPRM for modifying the current regulation?
- b. Given the crisis at the southern border, will DHS consider issuing a regulatory action here as an interim final rule?
- c. Has the NPRM been sent to OMB for final review?
- d. Will you ask for an OMB exemption from Executive Order 13771 to streamline the clearance process?

#### **4. Raise Asylum Fees.**

As suggested in the April 29, 2019 Presidential Memorandum, the Department of Justice and the Department of Homeland Security should immediately set a fee structure and impose fees for asylum applications and employment authorization, as allowed under 8 U.S.C. § 1158(d)(3). This would discourage frivolous and fraudulent applications from being filed.

- a. When can we expect the NPRM for modifying the current regulation?
- b. Given the crisis at the southern border, will DHS consider issuing a regulatory action here as an interim final rule?
- c. Has the NPRM been sent to OMB for final review?
- d. Will you ask for an OMB exemption from Executive Order 13771 to streamline the clearance process?

#### **5. Promulgate *Flores* Regulation.**

DHS and HHS should work to immediately issue final regulations to terminate the *Flores* Settlement Agreement. The regulations must address family detention and undo the damage done by the 9th Circuit, who improperly extended *Flores* to apply to family units. That decision has undermined our ability to detain migrants in accordance with current law and has led to a drastic surge in family units coming across the border. In April 2019, fraud was found in 25% of “family units” apprehended. We must end the exploitation of children along our southern border.

- a. What is the status update on adjudicating public comments received?
- b. When does DHS anticipate publication of the final rule?

#### **6. Negotiate Safe Third Country Agreement with Mexico in USMCA Negotiations.**

8 U.S.C. § 1158(a)(2)(A) allows for aliens to be removed to another country in which their life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion if the United States has a “safe third country” agreement with that country. DHS should lobby U.S. Trade Representative Lighthizer to make such an agreement with Mexico a priority in any USMCA negotiations.

- a. What is the current status of negotiations with Mexico concerning a Safe Third Country Agreement?
- b. When was the last meeting between U.S. officials and officials from the Mexican government regarding a Safe Third Country Agreement?

#### **7. Enforce the Migrant Protection Protocols.**

Fully implement the Migration Protection Protocol, which would require immigrants from Central America to remain in Mexico while they wait for their immigration hearings.

- a. How many aliens have been required to remain in Mexico pending their asylum application per the policy under the MPP?
- b. What is the number of aliens placed in expedited removal as opposed to MPP in the past month?
- c. What is the anticipated timeline for full implementation of the MPP?

We respectfully request that Department of Homeland Security takes action on these proposals and would appreciate an update on your efforts. We specifically request that you respond to this inquiry by June 6, 2019.

Sincerely,



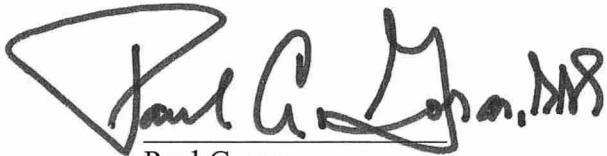
Michael Cloud  
Member of Congress



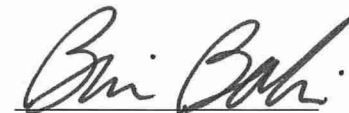
Chip Roy  
Member of Congress



Jody Hice  
Member of Congress



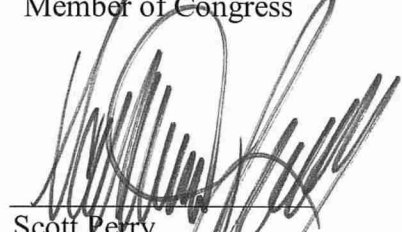
Paul Gosar  
Member of Congress



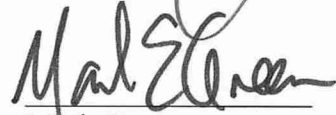
Brian Babin  
Member of Congress



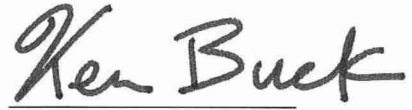
Andy Biggs  
Member of Congress



Scott Perry  
Member of Congress



Mark Green  
Member of Congress



Ken Buck  
Member of Congress



Jim Jordan  
Member of Congress



**RECEIVED**

**By ESEC at 3:57 pm, May 01, 2019**



April 30, 2019

VIA COURIER

Acting Secretary Kevin K. McAleenan  
Department of Homeland Security  
Washington, D.C. 20528

Director L. Francis Cissna  
U.S. Citizenship & Immigration Services  
20 Massachusetts Ave NW  
Washington, DC 20529

Acting Commissioner John Sanders  
U.S. Customs and Border Protection  
1300 Pennsylvania Ave. NW  
Washington, DC 20229

**RE: CBP Officers Conducting Credible Fear Interviews**

Dear Acting Secretary McAleenan, Acting Commissioner Sanders, and Director Cissna,

In a memorandum published yesterday, the President directed the Secretary to “reprioritize the assignment of immigration officers . . . as the Secretary deems necessary and appropriate to improve the integrity of adjudications of credible and reasonable fear claims . . . .” Presidential Memorandum on Additional Measures to Enhance Border Security and Restore Integrity to Our Immigration System (Apr. 29, 2019). Media reports indicate that your agencies may instruct U.S. Customs and Border Protection (CBP) agents or officers (hereinafter “agents”) to begin conducting credible fear interviews (CFI) for asylum seekers encountered at the border. We write to urge you not to move forward with this plan and to provide you with evidence to consider while determining whether to do so. We ask that you reply confirming that you have received and reviewed the enclosed information.

CBP is a law enforcement agency whose mission and responsibilities are incompatible with the sensitive, non-adversarial nature of credible fear interviews. Furthermore, many sources have documented a history of misconduct by CBP and its agents that make the agency wholly unsuited to assess asylum claims of vulnerable individuals seeking protection from persecution. This misconduct includes agents violating the law by failing to ask individuals whether they fear return to their home country, failing to refer asylum seekers for credible fear interviews and otherwise interfering with the credible fear process, providing false and misleading information to and about individuals in the agency’s custody, providing false or mistaken information on expedited removal forms, and inflicting physical and verbal abuse on those same individuals.

Border officers’ rights violations in the expedited removal context have been a concern for many years, and are well-known, including to Congress. See 22 U.S.C. § 6474 (authorizing study “to determine

whether immigration officers performing duties under section 1225(b)” were engaging in misconduct including “[i]ncorrectly failing to refer such aliens for an interview by an asylum officer” and “[i]ncorrectly removing such aliens to a country where they may be persecuted”); see also H.R. Rep. No. 105-408, pt. 3, at 17 (1998) (recognizing that immigration officers “may not always be following INS procedures designed to ensure that potential asylum claimants are properly referred” for interviews with asylum officers).

Attached to this letter, and summarized below, is documentation regarding the history of abuse of authority by CBP agents. The Department of Homeland Security (DHS), CBP and U.S. Citizenship and Immigration Services (USCIS) must consider this and similar documentation when determining whether to allow CBP agents to conduct credible fear interviews. We urge you not to permit this change in agency policy, for the following reasons:

**I. CBP agents regularly fail to refer individuals who express fear of return to their countries of origin for CFIs and otherwise interfere with asylum seekers’ claims**

CBP agents currently have limited responsibilities in the credible fear screening process—informing individuals potentially subject to expedited removal of their rights and referring individuals to USCIS asylum officers for credible fear interviews. These responsibilities are to be carried out without misinformation, harassment or intimidation.<sup>1</sup> CBP and USCIS must consider CBP agents’ well-documented failure to fulfill even these basic tasks before determining whether to entrust them with greater responsibility in the CFI process. Relevant evidence attached to this letter includes:

- Reports documenting CBP agents’ failure to comply with their obligations to asylum seekers:
  - Ex. A, DHS Office of the Inspector General, *Special Review—Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy* (Sept. 27, 2018) (describing CBP practices amounting to failure to properly refer asylum seekers for CFIs in order to “regulat[e] the flow of asylum-seekers at ports of entry”)
  - Ex. B, Amnesty International, *Facing Walls: USA and Mexico’s Violations of the Rights of Asylum-Seekers* (2017) (describing CBP agents’ coercion of and threats to asylum seekers, including making them recant their claims of fear on video, claiming that they cannot seek asylum without a ticket from officials in Mexico, and claiming that there is no more asylum for individuals from certain countries)
  - Ex. C, Borderland Immigration Council, *Discretion to Deny: Family Separation, Prolonged Detention, and Deterrence of Asylum Seekers at the Hands of Immigration Authorities Along the U.S.-Mexico Border*, 12-14 (2017) (reporting “commonplace” failure to refer individuals who express fear for CFIs and summary deportations of such individuals after hostile interrogations and “verbal, physical, and mental harassment”)
  - Ex. D, American Immigration Council, *Deportations in the Dark: Lack of Process and Information in the Removal of Mexican Migrants*, 1, 2, 5, 7-8 (Sept. 2017) (reporting that 55.7% of a survey of 600 deported Mexican migrants were not asked if they feared return to Mexico and describing numerous incidents of CBP interference with asylum claims)

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<sup>1</sup> CBP Directive No. 51735-013A, Standards of Conduct (Mar. 13, 2012) (“All employees must maintain high standards of honesty, integrity, impartiality, character, and professionalism . . .”).

- Ex. E, American Immigration Council, *Still No Action Taken: Complaints Against Border Patrol Agents Continue to Go Unanswered*, 9 (Aug. 2017) (reporting CBP's failure to act in response to complaints of misconduct, including complaints that agents ignored claims of fear or persecution)
- Ex. F, Human Rights First, *Crossing the Line: U.S. Border Agents Illegally Reject Asylum Seekers* (May 2017) (documenting CBP abuses towards asylum seekers, including ignoring asylum claims, providing false information (e.g., that the United States no longer provides asylum), mocking and intimidating asylum seekers, imposing procedures to deter asylum seekers from pursuing their claims, and coercing asylum seekers into giving up their claims)
- Ex. G, Human Rights First, *Violations at the Border: The El Paso Sector* (Feb. 2017) (describing CBP's treatment of asylum seekers in the El Paso sector, including examples of using physical force to turn asylum seekers away from ports of entry and refusing to process asylum seekers' claims)
- Ex. H, U.S. Comm'n on Int'l Religious Freedom, *Barriers to Protection: The Treatment of Asylum Seekers in Expedited Removal*, 20-32 (2016) (documenting examples of failure to properly screen for fear of return in CBP primary inspection interviews and noting "certain CBP officers' outright skepticism, if not hostility, toward asylum claims")
- Ex. I, ACLU, *American Exile: Rapid Deportations That Bypass the Courtroom*, 4 (Dec. 2014) (reporting that 55% of 89 interviewed individuals who received summary removal orders, including expedited removal, were not asked about fear of persecution in language they could understand and 40% of those asked about fear were deported without CFI despite expressing fear of return)
- Ex. J, Human Rights Watch, *"You Don't Have Rights Here": US Border Screening and Returns of Central Americans to Risk of Serious Harm* (Oct. 16, 2014) (finding, in investigation of individuals deported to Honduras, that CBP did not refer individuals seeking asylum for CFIs and that individuals were not informed of right to seek asylum or referred for CFI after expressing fear and faced harassment, threats, and coercion to dissuade them from seeking asylum)
- Ex. K, American Immigration Council, *Mexican and Central American Asylum and Credible Fear Claims: Background and Context* (May 2014) (providing description of credible fear process including report of frequent complaints that CBP agents dissuade people from seeking asylum through harassment, threats, provision of misinformation, use inadequate interview processes, and use of boilerplate language in paperwork indicating that the agents failed to record asylum seekers' claims)
- Ex. L, U.S. Comm'n on Int'l Religious Freedom, *Report on Asylum Seekers in Expedited Removal: Volume I: Findings & Recommendations*, 4, 10, 64 (2005) (documenting numerous "serious problems" in the expedited removal process "which put some asylum seekers at risk of improper return" and describing expedited removal as "a [s]ystem with [s]erious [f]laws")
- Ex. SS, Human Rights First, *Fact Sheet: Allowing CBP to Conduct Credible Fear Interviews Undermines Safeguards to Protect Refugees* (Apr. 2019) ("CBP officers already often fail to even properly question and refer asylum seekers for fear screenings.")

- Administrative complaints to DHS and/or its components documenting ongoing problems with CBPs' treatment of individuals who should be referred for CFIs:
  - Ex. U, Complaint to DHS by individual detained at South Texas Family Residential Center (Apr. 28, 2017) (documenting that complainant, who, with her 7-year-old son, attempted to apply for asylum at port of entry three times, was repeatedly told by CBP that there was "no more asylum" and that they could face family separation if they pursued their claims)
  - Ex. V, Complaint from American Immigration Council, et al., to DHS Officer for Civil Rights and Civil Liberties and DHS Inspector General, Re: CBP's Systemic Denial of Entry to Asylum Seekers at Ports of Entry on U.S.-Mexico Border (Jan. 13, 2017) (documenting CBP agents' failure to refer asylum seekers for CFIs by, inter alia, lying or misinforming them about asylum law, using intimidation, and engaging in physical and verbal abuse)
  - Ex. W, Complaint from ACLU of San Diego & Imperial Counties to CBP San Ysidro Port of Entry and CBP San Diego Field Office, Re: Denial of Food to Asylum Seekers Awaiting Processing at San Ysidro Port of Entry, 2 (Mar. 23, 2016) (reporting that CBP agent failed to provide for physical needs of disabled asylum seeker and made disparaging comments regarding her claims)
  - Ex. X, Complaint from National Immigrant Justice Center, et al., to DHS Officer for Civil Rights and Civil Liberties and DHS Inspector General, Re: Systemic Abuse of Unaccompanied Immigrant Children by CBP, 17 (June 11, 2014) (describing CBP agent insulting and calling a 16-year-old girl expressing fear of return a liar)
  - Ex. Y, Complaint from National Immigrant Justice Center, et al., to DHS Officer of Civil Rights and Civil Liberties and DHS Inspector General, Re: Inadequate U.S. Customs and Border Protection screening practices block individuals fleeing persecution from access to the asylum process, 12-20 (Nov. 13, 2014) (explaining that "[w]hen applicants express fears, CBP officials fail to capture those statements in the required documentation or include mistaken information," and providing numerous stories of asylum seekers affected by CBP's failures during the inspections stage of expedited removal)
- Lawsuits documenting CBP agents' failure to comply with their obligations to individuals with fear of return to another country:
  - Ex. FF, *Innovation Law Lab v. Nielsen*, No. 3:19-cv-00807 (N.D. Cal., filed Feb. 14, 2019), No. 19-15716 (9th Cir., argument on TRO held Apr. 24, 2019) (recounting, in lawsuit challenging Remain in Mexico policy, CBP agents' misconduct in interviewing asylum seekers, including failure to explain the individuals' rights, coercing them into signing documents, use of agents who are not fluent in Spanish, threats, and verbal harassment)
  - Ex. GG, *Al Otro Lado v. Nielsen*, No. 3:17-cv-02366-BAS-KSC (S.D. Cal., argument on second partial motion to dismiss scheduled May 10, 2019) (describing, in lawsuit challenging CBP's practice of denying asylum seekers' access to the asylum process, CBP agents' mistreatment of asylum seekers, including failing to refer them for CFIs, using lies, threats, intimidation and coercion to deter them, verbal and physical abuse, physically obstructing access to the ports of entry, imposing unreasonable delays, denying outright access to the asylum process, and denying access to the asylum

process in a racially discriminatory manner). Multiple declarations filed with the court in this case document CBP's interference with the credible fear process, including:

- Declaration of Diego Iniguez Lopez (summarizing the declarations of over fifty asylum seekers, all mothers detained at the South Texas Family Residential Center with their children, about CBP agents' failure to refer them for CFIs)
  - Declaration of Faraz Mohammadi (including declarations of 22 asylum seekers whom CBP refused to refer for CFIs)
  - Declarations of Shaw Drake, Leah Chavla, Joanna Williams, and Jennifer Harbury (describing, respectively, the experiences of Human Rights First, Women's Refugee Commission, Kino Border Initiative and individual attorneys with CBP agents' failure to refer asylum seekers for CFIs)
  - Declaration of Clara Long (describing records produced in response to a Freedom of Information Act Request (FOIA) by Human Rights Watch and the American Immigration Council for USCIS records describing complaints of CBP abuse, which included use of intimidation, coercion, or verbal abuse to deter individuals from expressing fear of return; CBP agents' failure to ask individuals about fear of return or to ask only improperly narrow questions about fear; and CBP agents' refusal to record information about fear of return and/or inclusion of incorrect information about fear of return in expedited removal paperwork)
- Requests that the agency reconsider its own expedited removal determinations due to, inter alia, failure to properly refer individuals for credible fear interviews, which were ultimately granted:
    - Ex. PP, Redacted Motion to Reopen and Rescind Expedited Removal Order (May 11, 2016) (errors include failure to refer for CFI, failure to read Record of Sworn Statement in Proceedings, and failure to identify individual as a minor not subject to expedited removal) (order rescinded Oct. 20, 2016)
    - Ex. QQ, Redacted Motion to Reconsider and Rescind Expedited Removal Order (Sept 24, 2015) (challenging expedited removal order as unlawfully issued against an unaccompanied minor) (order rescinded Jan. 26, 2016)

## **II. CBP agents regularly employ coercive tactics and provide false or misleading information to and about individuals seeking admission to the United States**

Numerous reports and complaints document that CBP agents have used coercive tactics to encourage individuals to acquiesce to speedy deportations, provided false or misleading information to individuals in their custody, and recorded clearly incorrect information on documents used to establish individuals' admissibility to the United States. USCIS and CBP must consider these past practices when determining whether to assign CBP agents to conduct CFIs, which require non-adversarial interviews and accurate record-keeping. Relevant evidence attached to this letter includes:

- Reports documenting CBP agents' coercive, misleading, or untruthful conduct:
  - Ex. D, American Immigration Council, *Deportations in the Dark*, 9-12 (describing coercive tactics by CBP agents, including that 50% of surveyed migrants who signed documents while in CBP custody were not given opportunity to read them before signing)



- Ex. M, University of Chicago Law School International Human Rights Clinic, et al., *Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection*, 29-31 (May 2018) (documenting CBP agents' threats to children to get them to sign documents, including requiring one boy to strip naked, telling another girl that she would be deported regardless of whether she signed the documents, and threatening a young mother with jail time and potential rape if she did not agree to deportation)
- Ex. N, Vanessa Romo, *U.S. Border Agents Seen on Video Trying to Deport a Man Who 'Looks Mexican'*, NPR, Apr. 12, 2018 (describing video footage of CBP agent attempting to deport "an injured and apparently incoherent man" because they thought he looked like he was from Mexico)
- Administrative complaints to DHS and/or its components documenting CBP agents' lies and/or coercive and misleading conduct:
  - Ex. Z, Complaint from American Immigration Council, et al., to DHS Officer for Civil Rights and Civil Liberties and DHS Acting Inspector General, Re: The Use of Coercion by DHS Officials Against Parents Who Were Forcibly Separated From Their Children, 13, 20, 22 (Aug. 23, 2018) (describing CBP agents' coercion of parents separated from their children at the U.S. border, including threat that mother would never see her child again and untruthful claims that separation would be short)
  - Ex. X, Complaint from National Immigrant Justice Center, et al., Re: Systemic Abuse of Children, 16 (documenting attempt by a CBP agent to force a 16-year-old boy to sign a document he believed was a deportation order and refusing to allow him to read the document)
  - Ex. AA, Complaint from ACLU, et al., to DHS Acting Officer for Civil Rights and Civil Liberties and DHS Acting Inspector General, Re: Abuse of power, excessive force, coercion, and unlawful confiscation of property by CBP at ports of entry along the U.S.-Mexico border (May 9, 2012) (describing repeated CBP practice of coercing U.S. citizens into "confessing" they were born abroad, confiscating their documents, and preventing them from entering the United States)
  - Ex. BB, FTCA complaint to CBP (Oct. 12, 2018) (seeking redress for CBP agent arresting individual who had passed RFI, then falsely telling him his court hearing had been cancelled and coercing him into agreeing to deportation)
- Lawsuits seeking redress for, inter alia, CBP agents' coercive conduct and policies:
  - Ex. HH, *Alasaad v. Nielsen*, No. 1:17-cv-11730-DJC (D. Mass., filed Sept. 13, 2017) (motion to dismiss denied May 9, 2018) (recounting, in challenge to policy of seizing travelers' electronic devices and searching them without individualized suspicion, CBP practice of coercing individuals into unlocking their electronic devices by threatening to seize the devices indefinitely)
  - Ex. II, *United States v. Raya-Vaca*, 771 F.3d 1195, 1205-06, 1210-11 (9th Cir. 2014) (holding that immigration officer's failure during expedited removal process to advise the defendant of the charge of removability and to permit him to review the sworn statement prepared by the officer violated his due process rights to notice and an

opportunity to respond)

- Request that the agency reconsider its own expedited removal determination due to CBP coercion and inaccurate statements on deportation paperwork:
  - Ex. RR, Redacted Motion to Reopen and Rescind Expedited Removal Order (Sept. 9, 2016) (describing CBP agents falsely accusing individual of claiming to be lawful permanent resident and threatening “punishment” for lying) (order vacated Oct. 3, 2016)

### III. CBP agents physically mistreat asylum seekers and other individuals in their custody

CBP agents have a well-documented history of physically abusing migrants, including employing excessive force during apprehension and against those already in CBP custody. This culture of violence has gone unchecked by CBP supervisors. USCIS and CBP must consider evidence of this pattern of abusive behavior against the very population to be served by credible fear interviews when determining whether to permit CBP agents to conduct CFIs.

Attached to this letter, please find the following relevant evidence:

- Reports documenting CBP agents’ physical abuse of those in their custody:
  - Ex. M, University of Chicago Law School International Human Rights Clinic, et al., *Neglect and Abuse of Unaccompanied Immigrant Children*, 10-13 (reviewing data showing that “CBP officials regularly use force on children [in their custody] when such force is not objectively reasonable or necessary,” including dragging a thirteen-year-old child out of the water, kicking him, and knocking him to the ground; smashing a sixteen-year-old boy’s face into the dirt with a boot; and dragging a handcuffed girl along the ground)
  - Ex. E, American Immigration Council, *Still No Action Taken*, 1, 8 (reporting that, between January 2012 and June 2015, CBP received 1,293 complaints of physical abuse, including beatings and use of a Taser in the mouth, and took no action in response to the vast majority)
  - Ex. O, American Immigration Council, *Why Caution is Needed Before Hiring Additional Border Patrol Agents and ICE Officers*, 5 (Apr. 2017) (reporting that “[b]etween 2007 and 2012, approximately 1,700 allegations of excessive force were leveled against CBP”)
  - Ex. P, ACLU of Arizona, *Record of Abuse: Lawlessness and Impunity in Border Patrol’s Interior Enforcement Operations*, 6 (Oct. 2015) (reporting that complaints regarding CBP agents’ conduct at interior checkpoints “repeatedly describe agents’ violent, reckless, and threatening conduct, including physically assaulting non-threatening motorists . . . and threatening to shoot motorists and their pets”)
  - Ex. Q, The Center for Latin American Studies, University of Arizona, *In the Shadow of the Wall: Family Separation, Immigration Enforcement and Security*, 24 (Mar. 2013) (reporting that about one in ten out of almost 400,000 migrants report some form of physical abuse by CBP agents during their last apprehension and one in four report verbal abuse)
  - Ex. R, American Immigration Council, *Bordering on Criminal: The Routine Abuse of Migrants in the Removal System*, 6 (Dec. 2013) (reporting that most migrants’

complaints of physical and verbal abuse against federal agents were directed at CBP agents)

- Administrative complaints to DHS and/or its components documenting claims of physical abuse:
  - Ex. Z, Complaint from American Immigration Council, et al., Re: The Use of Coercion, 18 (describing CBP agents “putting . . . children in headlocks” in order to separate them from their mothers)
  - Ex. X, Complaint from National Immigrant Justice Center, et al., Re: Systemic Abuse of Children, 2 (providing evidence that of 116 unaccompanied immigrant children held in CBP custody, one in four reported physical abuse by a CBP agent, including allegations of sexual assault, beatings, and the use of stress positions)
  - Ex. CC, Complaint from ACLU of Arizona, et al., to DHS Deputy Inspector General and DHS Officer for Civil Rights and Civil Liberties, Re: Abuses at U.S. Border Patrol interior checkpoints in southern Arizona, including unlawful search and seizure, excessive force, and racial profiling, 1, 4-10 (Jan. 15, 2014) (documenting numerous incidents of the use of excessive force by CBP agents and providing examples of unconstitutional seizures that became physically aggressive)
  - Ex. AA, Complaint from ACLU, Re: Abuse of power, 2, 8 (referring to “multiple complaints about incidents at southwest-border [ports of entry] involving excessive force [and] unwarranted, invasive and humiliating personal searches,” including punching and kicking a man in handcuffs)
- Lawsuits seeking redress for CBP agents’ use of excessive force or other physical violence:
  - Ex. JJ, *Lovell v. United States*, No. 1:18-cv-01867 (E.D.N.Y., filed Mar. 28, 2018) (alleging that CBP agents performed a painful and physically invasive search of a woman, including a body cavity search, and then told her that it was a “random search” and she could be subject to further “random searches”)
  - Ex. KK, *J.I. v. United States*, No. 1:18-at-00185 (E.D. Cal., complaint filed Mar. 15, 2018) (alleging CBP agent sexually assaulted minor while in CBP custody)
  - Ex. LL, *ACLU of Arizona, et al v. USDHS*, et al, Nos. 15-00247 (D. Ariz., filed Feb. 11, 2015) (Order Aug. 14, 2017) and 18-15907 (9th Cir., oral argument scheduled May 16, 2019) (discussing hundreds of complaints of abuse of children and challenging CBP’s refusal to produce the names of the accused agents while simultaneously taking no action to hold them accountable)
  - Ex. MM, *Perez v. United States*, 3:13-cv-01417-WQH (S.D. Cal., fourth amended complaint filed Sep. 22, 2016); 17-56610 (9th Cir., appeal of grant of motion to dismiss on jurisdiction grounds filed Oct. 19, 2017) (alleging CBP agents shot man in the head under a CBP policy permitting the use of deadly force against people throwing rocks);
  - Ex. NN, *Rico Andrade v. United States*, No. 2:15-cv-00103 (S.D. Texas, complaint filed Feb. 27, 2015) (alleging that, consistent with CBP policy, CBP agents intentionally stepped into the path of a moving vehicle in order to justify shooting man who died as a result of multiple gunshot wounds)



#### IV. CBP agents subject individuals at the border to verbal abuse and engage in racial profiling

CBP agents regularly demonstrate animus towards asylum-seekers, other migrants, and those perceived to be noncitizens through verbal abuse and racial profiling. As recently as April 2019, a witness recorded a CBP agent shouting at a group of migrants, “Muevanse! Muevanse como vacas,” which translates to: “Move! Move like cattle!”<sup>2</sup> USCIS and CBP must consider evidence of such a bias and hostility before determining whether to permit CBP agents to screen asylum applicants in interviews about inherently sensitive fears of persecution.

Enclosed you will find the following relevant evidence:

- Reports documenting CBP agents’ verbal abuse of asylum-seekers and other migrants and racial profiling:
  - Ex. M, University of Chicago Law School, *Neglect and Abuse of Unaccompanied Immigrant Children*, 14-15 (reporting that over 30,000 records from DHS Office for Civil Rights and Civil Liberties covering 2009 to 2014 “include many instances of CBP officials’ verbal abuse of the children they apprehend, including death threats and threats of other violence”)
  - Ex. D, American Immigration Council, *Deportations in the Dark*, 13-16 (documenting that, of 600 Mexican migrants deported to Mexico, nearly one in four reported that CBP agents were abusive or aggressive during their apprehension, including calling them “fucking wetbacks,” mocking a migrant with wounds from a CBP attack dog, and raising the air conditioning when a mother of a three-year-old complained of the cold)
  - Ex. S, Jesuit Conference of Canada and U.S., et al., *Our Values on the Line: Migrant Abuse and Family Separation at the Border*, 6-10 (Sept. 2015) (reporting that, of 3,016 Mexican nationals surveyed after deportation in 2015, 38.4 percent reported abuse by CBP agents and 20% of women who completed long-form surveys, 20 percent reported verbal abuse)
  - Ex. T, OneAmerica, et al., *The Growing Human Rights Crisis Along Washington’s Northern Border*, 18-20 (Mar. 2012) (describing CBP agents engaged in widespread racial profiling along Washington’s northern border)
- Administrative complaints to DHS and/or its components documenting claims of verbal abuse:
  - Ex. Z, Complaint from American Immigration Council, et al., Re: The Use of Coercion, 19, 22, 23, 26 (describing CBP agents screaming at a mother that she would never see her son again, yelling at a mother that immigrants were coming to this country to “take up their resources” and “live off of their tax money,” telling a mother that “all people from El Salvador are the biggest liars,” and taunting a mother held in a hielera, “You came to a country that is not yours, and now look at you”)
  - Ex. DD, FTCA complaint to CBP (June 20, 2018) (alleging that CBP agents singled out man as the only Latinx-appearing person exiting a Greyhound Bus, asking him for his papers and accusing him of being “illegal” and further alleging a pattern of aggressive

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<sup>2</sup> Mauricio Casillas, *Border Patrol reviewing video of agent allegedly yelling at migrants: ‘Move like cattle’*, KVIA, Apr. 18, 2019, <https://www.kvia.com/news/border/border-patrol-reviewing-video-of-agent-allegedly-yelling-at-migrants-move-like-cattle-/1070263404>.

questioning of passengers of color, those who speak English with an accent, or those who indicate that English is not their primary language at the same bus station in Spokane);

- Ex. EE, Complaint to DHS by individual detained at South Texas Family Residential Center (February 22, 2018) (asylum-seeker reported that CBP agents repeatedly yelled at her and her family and called them “a pack of dogs” and “liars”)
  - Ex. X, Complaint from National Immigrant Justice Center, et al., Re: Systemic Abuse of Children, 2 (reporting that of 116 unaccompanied children detained by CBP, more than half reported various forms of verbal abuse, including racially- and sexually-charged comments and death threats)
  - Ex. CC, Complaint from ACLU of Arizona, Re: Abuses at Interior Checkpoints, 1, 4-10 (describing frequent reports that CBP agents at Arizona checkpoints engage in racial profiling and documenting unconstitutional seizures in which CBP agents were belligerent, telling one U.S. citizen, “shut your fucking mouth” and lying about the agent’s name)
- Lawsuits seeking redress for CBP agents’ racial profiling:
    - Exh. OO, *Suda v. U.S. Customs and Border Protection*, No. 4:19-cv-00010-BMM, (D. Mont., filed Feb. 14, 2019) (alleging that a CBP agent detained two U.S. citizens because they were speaking Spanish while shopping and that other Latinx in the community similarly have been targeted by CBP agents)

\* \* \* \*

Before determining whether CBP agents will conduct credible fear interviews, USCIS and CBP must consider this well-documented history of misconduct by the agency, including the attached evidence. We urge that USCIS and CBP not permit this change to the credible fear process and that a corps of trained asylum officers from USCIS continue to perform credible fear interviews.

Sincerely,

Mary Kenney  
American Immigration Council  
1331 G Street NW, Suite 200  
Washington, DC 20005

Jennifer Chang Newell  
American Civil Liberties Union Immigrants’ Rights Project  
39 Drumm Street  
San Francisco, CA 94111

CC: John M. Mitnick, DHS General Counsel  
James McCament, Deputy Under Secretary, DHS Office of Strategy, Policy, and Plans  
Kathy Nuebel Kovarik, Chief, USCIS Office of Policy and Strategy  
Craig Symons, Chief, USCIS Office of Chief Counsel

Tim Quinn, Acting Executive Director, CBP Intergovernmental Public Liaison  
Cameron Quinn, DHS Officer for Civil Rights and Civil Liberties  
Jennifer Higgins, Associate Director, USCIS Refugee, Asylum and International Operations  
Shannon Joyce, OMB DHS Desk Officer

Enclosures (electronic copies of cited exhibits with paper copies of cited exhibits to Secretary Kevin K. McAleenan, Director L. Francis Cissna, and Acting Commissioner John Sanders)

## Index of Exhibits

### Reports

- A DHS Office of the Inspector General, *Special Review—Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy* (Sept. 27, 2018)  
<https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-84-Sep18.pdf>
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- D American Immigration Council, *Deportations in the Dark: Lack of Process and Information in the Removal of Mexican Migrants* (Sept. 2017)  
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- F Human Rights First, *Crossing the Line: U.S. Border Agents Illegally Reject Asylum Seekers* (May 2017)  
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- H U.S. Comm’n on Int’l Religious Freedom, *Barriers to Protection: The Treatment of Asylum Seekers in Expedited Removal* (2016)  
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- I ACLU, *American Exile: Rapid Deportations That Bypass the Courtroom* (Dec. 2014)  
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- J Human Rights Watch, *"You Don’t Have Rights Here": US Border Screening and Returns of Central Americans to Risk of Serious Harm* (Oct. 16, 2014)  
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- K American Immigration Council, *Mexican and Central American Asylum and Credible Fear Claims: Background and Context* (May 2014)  
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- P ACLU of Arizona, *Record of Abuse: Lawlessness and Impunity in Border Patrol’s Interior Enforcement Operations* (Oct. 2015)  
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- R American Immigration Council, *Bordering on Criminal: The Routine Abuse of Migrants in the Removal System* (Dec. 2013)  
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- S Jesuit Conference of Canada and U.S., et al., *Our Values on the Line: Migrant Abuse and Family Separation at the Border* (Sept. 2015)  
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### Complaints

- U Complaint to DHS by individual detained at South Texas Family Residential Center (Apr. 28, 2017)
- V Complaint from American Immigration Council, et al., to DHS Officer for Civil Rights and Civil Liberties and DHS Inspector General, Re: CBP's Systemic Denial of Entry to Asylum Seekers at Ports of Entry on U.S.-Mexico Border (Jan. 13, 2017)  
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- W Complaint from ACLU of San Diego & Imperial Counties to CBP San Ysidro Port of Entry and CBP San Diego Field Office, Re: Denial of Food to Asylum Seekers Awaiting Processing at San Ysidro Port of Entry (Mar. 23, 2016)  
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- Y Complaint from National Immigrant Justice Center, et al., to DHS Officer of Civil Rights and Civil Liberties and DHS Inspector General, Re: Inadequate U.S. Customs and Border Protection screening practices block individuals fleeing persecution from access to the asylum process (Nov. 13, 2014)  
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- Z Complaint from American Immigration Council, et al., to DHS Officer for Civil Rights and Civil Liberties and DHS Acting Inspector General, Re: The Use of Coercion by DHS Officials Against Parents Who Were Forcibly Separated From Their Children (Aug. 23, 2018)  
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- AA Complaint from ACLU, et al., to DHS Acting Officer for Civil Rights and Civil Liberties and DHS Acting Inspector General, Re: Abuse of power, excessive force, coercion, and unlawful confiscation of property by CBP at ports of entry along the U.S.-Mexico border (May 9, 2012) <https://www.aclu.org/legal-document/customs-and-border-protection-complaint?redirect=immigrants-rights/customs-and-border-protection-complaint>
- BB FTCA complaint to CBP (Oct. 12, 2018) [https://cbpabusestest2.files.wordpress.com/2018/11/ftca-complaint-nwirp\\_redacted.pdf](https://cbpabusestest2.files.wordpress.com/2018/11/ftca-complaint-nwirp_redacted.pdf)
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- DD FTCA complaint to CBP (June 20, 2018) [https://cbpabusestest2.files.wordpress.com/2018/11/2018-06-20-sosa-segura-ftca-claim-letter\\_confidential\\_redacted.pdf](https://cbpabusestest2.files.wordpress.com/2018/11/2018-06-20-sosa-segura-ftca-claim-letter_confidential_redacted.pdf)
- EE Complaint to DHS by individual detained at South Texas Family Residential Center (February 22, 2018)

#### Lawsuits

- FF *Innovation Law Lab v. Nielsen*, No. 3:19-cv-00807 (N.D. Cal., filed Feb. 14, 2019), No. 19-15716 (9th Cir., argument on TRO held Apr. 24, 2019) <https://cbpabusestest2.files.wordpress.com/2019/03/lovell-complaint.pdf>
- GG *Al Otro Lado v. Nielsen*, No. 3:17-cv-02366-BAS-KSC (S.D. Cal., argument on second partial motion to dismiss scheduled May 10, 2019) <https://ccrjustice.org/sites/default/files/attach/2018/10/AmendedComplaint.pdf> [https://www.americanimmigrationcouncil.org/sites/default/files/litigation\\_documents/litigation\\_aol\\_declarations\\_of\\_immigration\\_and\\_human\\_rights\\_advocates.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/litigation_documents/litigation_aol_declarations_of_immigration_and_human_rights_advocates.pdf)
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- LL *ACLU of Arizona, et al v. USDHS, et al*, Nos. 15-00247 (D. Ariz., filed Feb. 11, 2015) (Order Aug. 14, 2017) and 18-15907 (9th Cir., oral argument scheduled May 16, 2019)  
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#### Motions to Reopen

- PP Redacted Motion to Reopen and Rescind Expedited Removal Order (May 11, 2016)
- QQ Redacted Motion to Reconsider and Rescind Expedited Removal Order (Sept 24, 2015)
- RR Redacted Motion to Reopen and Rescind Expedited Removal Order (Sept. 9, 2016)  
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USCIS has been conducting informational briefings on an ongoing basis for CBP personnel at various ports of entry and stations throughout the southwest border since February 2019. The Houston Asylum Office and the Asylum Pre-Screening Center (based in Arlington, Virginia) primarily administer and deliver these briefings with support from Headquarters as needed. USCIS has conducted approximately 15 trainings within the last year.

The purpose of these briefings are:

- (1) To provide USCIS and CBP personnel a better understanding of each agency's role within the expedited removal framework; and
- (2) To identify areas of greater local intra-agency collaboration and foster local partnerships to strengthen the integrity of the immigration system in advancement of the greater DHS mission.

Presentations are tailored to the needs and interests of the local audience. As a result, the length of the presentation can range from 1-3 hours depending on the scope of the topics to be covered and the level of specificity requested. During these briefings, CBP personnel generally receive information on:

- The place USCIS and the Asylum Division occupies within the larger DHS framework.
- The main caseloads administered by the Asylum Division including affirmative asylum, credible fear, reasonable fear, and MPP.
- The strategies and tools utilized by USCIS to identify fraud and national security risks, with a particular focus on the border caseloads.
- Credible fear procedures, statistical trends, and processes with a particular emphasis on issues involving direct interaction between USCIS and CBP such as case referrals and dissolution requests.
- The great value and usefulness of information documented on the I-867A and I-867B by CBP personnel in assessing credibility, as well as tips on the type of information that Asylum Officers find to be generally helpful in that assessment.

It is beneficial to the Department that USCIS and CBP understand each other's processes and procedures because that ensures cases move through the expedited removal process as quickly as possible. In addition, there is great benefit that each agency understanding the other's methods and means to identify fraud and national security concerns so that trends and intelligence can be shared and quickly acted upon at the national and local levels. Lastly, there is great value to the Department that all parties have access to the information needed to execute their duties in a manner that will reinforce the integrity of our immigration system. By ensuring that aliens apprehended are asked similar questions at different stages in the process, DHS is building a record that can be relied upon downstream to assess credibility, as well as identify fraud and national security trends.

Feedback from these presentations have been overwhelmingly positive. However, both agencies should be sensitive to the intense workload demands on their respective field staff and therefore some flexibility should be afforded to the local operators to customize and the focus the briefings to suit local needs.

|            |                                                                                        |
|------------|----------------------------------------------------------------------------------------|
| HQ POC     | Elizabeth Mura                                                                         |
| Local POCs | Bryan Hemming (responsible for everything east of El Paso, Texas)                      |
|            | Jennifer Rellis/Graham Doeren (responsible for El Paso and everything west of El Paso) |

**Andre, Lisa S**

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**From:** Andre, Lisa S  
**Sent:** Thursday, June 6, 2019 10:41 AM  
**To:** Villanueva, Abraham; Vargas, Israel; Dickey, Johnathan E; Balen, Paul W II; Perry, Navarre J; Cruz, Lisandro; Martin, Jose A; Garcia, Bryant; Guz, Michael; Cigarroa, Geovanny  
**Subject:** Dissolution Documents  
**Attachments:** DissolutionFormQuestions.dot

Hi all –

This is the dissolution form with the attached questions you need to use. I think you all need this.

Thanks,  
Lisa

\_\_\_\_\_

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DHS-19-1398-A-000027

## Credible Fear Dissolution Questions

Date:

Name: ,

A Number:

Officer: ,

Q. It is my understanding that you wish to dissolve or withdraw your asylum claim, is that correct?

A.

Q. Do you have an attorney/consultant?

A.

Q. Are you comfortable proceeding without an attorney or consultant?

A.

Q. Our records indicate that you signed and received a copy of a form that told you about the credible fear process, is that correct?

A.

Q. Do you have any questions about that form?

A.

Q. To dissolve or withdraw your claim, I will need you to sign another form and answer a few questions. The interpreter is going to read the form to you.

Request for Dissolution of Credible Fear form read to the applicant in

Q. Do you have any questions about the form that was just read to you?

A.

Q What is your full and correct name?

A.

Q. When did you first enter the United States?

A.

Q. On you expressed a fear of returning to your country. What was the fear you expressed at that time?

A.

Q. Are you still afraid of going back to your country?

A.

Q. Despite your fear it is your intention to return to your country?

A.

Q. How have you been treated in detention?

,

A.

Q. Did anything happen to you while you were in detention to cause you to change your mind?

A.

Q. Have you been coerced, intimidated, threatened, or persuaded by anyone to dissolve your case?

A.

Q. Do you understand you may be barred from entering the U.S. for a period of 5 or more years as a result of withdrawing from the credible fear process?

A.

Q. Do you understand that you can change your mind and request protection anytime before you are removed from the U.S.?

A.

Q. Do you have any questions?

A.

**Andre, Lisa S**

---

**From:** Andre, Lisa S  
**Sent:** Wednesday, June 12, 2019 4:23 PM  
**To:** Garcia, Bryant; Villanueva, Abraham; Guz, Michael; Martin, Jose A; Perry, Navarre J; Cruz, Lisandro; Vargas, Israel; Balen, Paul W II; Cigarroa, Geovanny; Dickey, Johnathan E  
**Cc:** Benjamin B Doran (Ben) (benjamin.b.doran@uscis.dhs.gov); Hunt, Margo M  
**Subject:** RE: Case Submissions/SAO Assignments

Hi all –

The new ZLA/ZAC form filler is available through the ZLA shared drive. You can find it here: **Q:\APSO\APSO Form Fillers\ZAC Form Filler updated JUNE 2019**. Please download a copy to use and do not make edits to the one in the folder. It should have all the required addresses for ZAR and ZLA facilities.

Also, please add the following question to your templates as it is a required question when someone states that they have a medical conditions “have you informed the facility of your medical condition?”

Thanks!  
Lisa

**From:** Andre, Lisa S  
**Sent:** Tuesday, June 11, 2019 10:44 AM  
**To:** Garcia, Bryant <bryant.garcia@uscis.dhs.gov>; Villanueva, Abraham <abraham.villanueva@uscis.dhs.gov>; Guz, Michael <michael.guz@uscis.dhs.gov>; Martin, Jose A <jose.a.martin@uscis.dhs.gov>; Perry, Navarre J <navarre.j.perry@uscis.dhs.gov>; Cruz, Lisandro <lisandro.cruz@uscis.dhs.gov>; Vargas, Israel <israel.vargas@uscis.dhs.gov>; Balen, Paul W II <paul.w.balen@uscis.dhs.gov>; Cigarroa, Geovanny <geovanny.cigarroa@uscis.dhs.gov>; Dickey, Johnathan E <johnathan.e.dickey@uscis.dhs.gov>  
**Cc:** Benjamin B Doran (Ben) (benjamin.b.doran@uscis.dhs.gov) <benjamin.b.doran@uscis.dhs.gov>; Kim, Alejandra <Alejandra.Kim@uscis.dhs.gov>  
**Subject:** Case Submissions/SAO Assignments

Hi all –

In order to save some trees (and your sanity), we are going to try to out electronic submissions moving forward.

We have assigned you all a supervisor for this week (see below) Please send all the documents for your cases to your assigned SAO. Your cases may get reviewed by someone else, but the majority of your feedback will be from the assigning supervisor. Please email each case separately, and include the service documents for the case as well as the following forms:

- I-870 Word Document. You can email the form but please come down to print and sign the signature page. You can leave it on the back table.
- Checklist Word Document
- Service Documents in Word (NTA or I863/I869)
- Interview Notes Word Document
- All security checks in one PDF document labeled “Security Checks” – this should include the BISC, hit memos, CPMS/Global Checks page printouts.

- Any additional memos should be included in Word Format.

**Team Assignments**

Lisa: Bryant, Abraham, Michael, Jose, Navarre

Margo: Lisandro, Israel, Paul, Geo, John

Thanks!

Lisa



**Andre, Lisa S**

---

**From:** Andre, Lisa S  
**Sent:** Friday, June 14, 2019 9:31 AM  
**To:** Garcia, Bryant; Villanueva, Abraham; Guz, Michael; Vargas, Israel; Dickey, Johnathan E; Cigarroa, Geovanny; Cruz, Lisandro; Balen, Paul W II  
**Cc:** Lynn, Mallory L; Hunt, Margo M; Benjamin B Doran (Ben) (benjamin.b.doran@uscis.dhs.gov)  
**Subject:** Interviews Next Week

Hi all –

I'm heading out today, but Mallory will be back next week to help out and I'll still be reviewing your cases. Margo will also be staying through next week and Ben will be here for a couple of days.

Starting Monday, you will be doing 3 cases/day. Please turn in your cases to your assigned supervisor below:

**Lisa:** Bryant, Abraham, Michael

**Margo:** Israel, John, Geo

**Mallory:** Lisandro, Paul

Enjoy your weekend!

Thanks,  
Lisa

**Andre, Lisa S**

---

**From:** Andre, Lisa S  
**Sent:** Friday, June 14, 2019 12:30 PM  
**To:** Garcia, Bryant; Villanueva, Abraham; Perry, Navarre J; Cigarroa, Geovanny; Dickey, Johnathan E; Martin, Jose A; Vargas, Israel; Guz, Michael; Balen, Paul W II  
**Cc:** Hunt, Margo M; Benjamin B Doran (Ben) (benjamin.b.doran@uscis.dhs.gov)  
**Subject:** RE: Common Errors \_ Please Review

Hi all –

Here are a couple more errors that we have been seeing repeatedly:

- If the applicant entered with a spouse, you must give them the explanation about adding dependents. This must always be done, and it must be completed in the format that we provided to you.
- The fingerprint result box on the BISC should reflect the IAFIS results on the I213 (positive or negative). If IAFIS is not on the I213, you can check negative if it says that there is no criminal/immigration record. If criminal or immigration history is listed, then check positive.
- The directions initially given regarding TECS are outdate. You should not be checking the I213 box. You will always check the Global checks box as these are automatically run now. If there is a hit, you need to complete a manual search box.
- Global must be updated with the interview and decision
- Do not check any boxes on the second page of the NTA. If your templates are auto-generating these, please update them.

Also, for ZAR please remove TBD from the date and time of the court date on NTAs. It can be left blank.

Thanks,  
Lisa

**From:** Andre, Lisa S  
**Sent:** Tuesday, June 11, 2019 9:46 AM  
**To:** Garcia, Bryant <bryant.garcia@uscis.dhs.gov>; Villanueva, Abraham <abraham.villanueva@uscis.dhs.gov>; Perry, Navarre J <navarre.j.perry@uscis.dhs.gov>; Cigarroa, Geovanny <geovanny.cigarroa@uscis.dhs.gov>; Dickey, Johnathan E <johnathan.e.dickey@uscis.dhs.gov>; Martin, Jose A <jose.a.martin@uscis.dhs.gov>; Vargas, Israel <israel.vargas@uscis.dhs.gov>; Guz, Michael <michael.guz@uscis.dhs.gov>; Balen, Paul W II <paul.w.balen@uscis.dhs.gov>  
**Cc:** Hunt, Margo M <Margo.M.Hunt@uscis.dhs.gov>; Benjamin B Doran (Ben) (benjamin.b.doran@uscis.dhs.gov) <benjamin.b.doran@uscis.dhs.gov>  
**Subject:** Common Errors \_ Please Review

Hi all –

Just wanted to bring some errors we have been seeing in a lot of cases:

- Interviews/decisions need to be entered in Global
- CPMS printouts must be included in your security checks
- ROIT is needed if there is a TECS hit
- **YOU MUST DELETE ANY TEMPLATE LANGUAGE FROM YOUR NOTES – we have been whiting out a lot of**

**sample questions. It is extremely important that these not be included in your notes since they are served on the applicants/court.**

Let us know if you have any questions.

Thanks,  
Lisa

**From:** Perkowski, Thomas B  
**Sent:** Friday, July 12, 2019 12:29 PM  
**To:** Gordon, Jonathan; O'Malley, Robert L  
**Subject:** Sample Scenarios for COI Research Session

I drafted this very quickly, so please feel free to edit the prompts as you see fit.

#### El Salvador

- An applicant claims he cannot return Soyapango due to his fear of the Mau Mau or Mao Mao (he is not sure how to spell it), but does not tell you anything more about the Mau Mau/Mao Mao (or however you spell it). What do you do next?

Answer: El Salvador: Mao Mao Gang, RAI0 Research Unit, May 12, 2017 (this would hopefully encourage them to use the ECN, although they can find stuff on open source too).

#### Cuba

- A Cuban applicant claims he was a member of the "Mario Manuel de la Peña" group. Applicant testified that as a member of this group, he and other members debated human rights issues and documented human rights violations in Cuba. Do we have any information on "Mario Manuel de la Peña" in Cuba, and do we have any information about this "social group" that might either corroborate or refute applicant's assertion that the group exists and functions in Cuba?

Answer: Good example to show them how hard it can be to verify Cuban claims, and how the COI can be unreliable and of limited utility. We got this question this week, and our response is below. You could see what they come up with, and then send them what we found, and then discuss with them how to use the COI in their line of questioning to help with credibility....(i.e. who founded the group? Do you know any other members? Compare where the applicant is from to where activity is reported. What types of activities does the group do? Etc.)

The *Movimiento Nacional de Derechos Humanos Mario Manuel de la Peña* is a Cuban group that was reportedly created in 2000 or the late 1990s by the Cuban dissident Omar Pernet Hernández. Pernet was one of the 75 Cuban dissidents ("Group of 75") who was imprisoned during the "Black Spring" in Cuba in 2003; he was sentenced to 25 years in jail for "enemy propaganda." Pernet was detained until 2010 when he was freed and sent to Spain, and died in October 2017 in Kentucky.

Information on the group is limited. We were able to find what appears to be the group's website, with blog postings from 2010 (another apparent website of the group has postings from earlier in 2010 and 2009). According to a posting on the website from February 25, 2010, the group was founded in 1997 in Cuba and named after Mario Manuel de la Peña, the Brothers to the Rescue pilot who was killed in 1996. We also found what appears to allegedly be a press release from the group from 2008, which discusses a series of request related to human rights and the political situation in Cuba. As often happens when researching older, more obscure Cuban dissident groups, the Research Unit could not verify the authenticity of the websites and the press release.

In its monthly report on political repression in Cuba for July 2017, the *Comisión Cubana de Derechos Humanos y Reconciliación Nacional* (CCDHRN)—which Human Rights Watch has described as a "respected human rights group that is not recognized by the Cuban government"—reported on three incidents involving members of the "Movimiento Mario de la Peña" (see p.13):

| Date | Place incident | Victims | Type incident | Source information |
|------|----------------|---------|---------------|--------------------|
|------|----------------|---------|---------------|--------------------|

(b)(6)

|          |  |
|----------|--|
| 17.07.17 |  |
| 17.07.17 |  |
| 17.07.17 |  |

In a September 2017 [interview](#) with Radio Television Marti, Yonimiler del Río Polo, a human rights activist of the *Movimiento de Derechos Humanos "Mario Manuel de la Peña"*, spoke about the detention of three members of the group, and discussed the organization's goals and activities.

-

| Date | Place incident | Victims | Type incident | Source information |
|------|----------------|---------|---------------|--------------------|
|------|----------------|---------|---------------|--------------------|

(b)(6)

|          |  |
|----------|--|
| 17.07.17 |  |
| 17.07.17 |  |
| 17.07.17 |  |

**Andre, Lisa S**

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**From:** Andre, Lisa S  
**Sent:** Friday, July 19, 2019 7:15 AM  
**To:** Pascoe, Bruce E; Vine, Annie R (Ringo); Kumar, Vikram  
**Cc:** Yasrobi, Sharon A  
**Subject:** Calibration Exercise  
**Attachments:** Calibration Evaluation.xlsx; Calibration Case.pdf

Hi all –

Since you missed the calibration exercise, I just wanted to reach out and let you know what we talked about. The students have all been instructed that they must use the HQ template that is currently on the BP training ECN. They do not have access to the shared drive and we specifically told the AOs not to share any templates so it shouldn't be a problem. Please refrain from giving them any of your own templates, for interviews or checklists. You can direct them to sample checklists on the ECN. You are, of course, welcome to give them copies of any checklists that you edit.

For the interviews, you will be evaluating their initial submission, giving them feedback and asking them to make corrections. They should complete their corrections during their self-study periods and return them to you electronically. On resubmission, you should make any necessary corrections yourself and provide the officers with a copy. You will be signing off on the cases as the reviewing SAO and submitting them to ZAR for service.

Please remember that we are focusing on the mandatory portions of the exercise and not teaching office-specific best practices. Please review the HQ template and download so you can take notes during the interview more easily. Nexus questions are only required if it is a possible negative on persecution, there are not specific CAT questions nor do are they required to cover CAT in a separate section (i.e. if the persecutor is the government, they don't have to ask about harm by the government separate). The mandatory questions on the HQ template are the ones OCC wants them to use.

Attached is the calibration exercise we did with a sample evaluation form. Just a note that I missed an error on the I869 (the credibility box should not be checked) and I messed up the A# on the I870 when I was redacting it.

Please see Sharon or me Monday morning to go over how we are handling attorney reschedules. I also note the IFR should not apply to the cases, but please review the files to ensure they entered before 7/16/19.

Thanks,  
Lisa



## Credible Fear/Reasonable Fear Background Identity and Security Checklist

☐ CHECK HERE IF THERE IS CLASSIFIED INFORMATION ON THIS CASE.

BACKGROUND IDENTITY AND SECURITY CHECK CLEARED FOR ADJUDICATION:

AO: J. Smith DATE: 06/12/2019 SAO CONCURRENCE \_\_\_\_\_ DATE: \_\_\_\_\_

(b)(6)

### CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS



(b)(6)

**CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS**

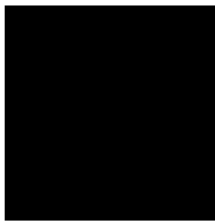
## CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

(b)(6)

VISUAL VERIFICATION

SUMMARY VIEW

IDENTITY SUMMARY >>> FIN: [REDACTED] | NAME: [REDACTED] (b)(7)(e)



| DOB    | Country of Birth | Citizenship | Person Ids |                     | Encounter Summary    |  |
|--------|------------------|-------------|------------|---------------------|----------------------|--|
|        |                  |             | FBI        | Agency              | Number of Encounters |  |
| Gender |                  | Race        | [REDACTED] |                     |                      |  |
|        |                  |             | A          | DHS.US-VISIT.FBICMF | 1                    |  |
| U      |                  |             | [REDACTED] | DHS.CBP.BP          | 2                    |  |
|        |                  |             |            | DHS.ICE.OIA         | 1                    |  |

IDENTITY DETAILS VIEW

◀◀◀ Back to Search Panel      [icon] Collapse All      [icon] Expand All

- 05/17/2019 DHS US-VISIT FBICMF >>> FIN: [REDACTED] | EID: [REDACTED] (b)(7)(e)  
[REDACTED] | NAME: [REDACTED] STATUS [REDACTED]

 Collect Biometrics

BIO DATA

|                                                                                   |              |                  |               |                     |  |
|-----------------------------------------------------------------------------------|--------------|------------------|---------------|---------------------|--|
| EID <div></div>                                                                   | NAME         |                  |               | Person ID Type / ID |  |
|  | <div></div>  |                  |               | FBI / <div></div>   |  |
|                                                                                   | DOB          | Country of Birth | Citizenship   |                     |  |
|                                                                                   | Gender       | Race             | Height (ins.) |                     |  |
|                                                                                   | U            |                  |               |                     |  |
| FIN <div></div>                                                                   | Weight (lbs) | Eye Color        | Hair Color    |                     |  |

- ENCOUNTER DETAILS

(b)(7)(e)

(b)(7)(e)

- 05/17/2019 DHS CBP BP &gt;&gt;&gt;

NAME:

 Collect Biometrics

## BIO DATA

| EID                                                                                   | NAME                                                                               | Person ID Type / ID                                                                     |
|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
|      |  | A /  |
|      | DOB                                                                                | Country of Birth                                                                        |
|                                                                                       |   | CC                                                                                      |
|                                                                                       |   | CUB                                                                                     |
|                                                                                       | Gender                                                                             | Race                                                                                    |
| FIN  | Height (ins.)                                                                      |                                                                                         |
|                                                                                       | M                                                                                  | W                                                                                       |
|                                                                                       | Weight (lbs)                                                                       | Eye Color                                                                               |
|                                                                                       |                                                                                    | Hair Color                                                                              |

## - ENCOUNTER DETAILS

## DEROGATORY DATA

| Source | Type  | Entry Date                |
|--------|-------|---------------------------|
|        | RECID | May 17, 2019 20:16:54 EST |

## TRANSACTION DATA

| Date Finger Printed | Site Code | Terminal ID | Date Loaded | Reason Finger Printed |
|---------------------|-----------|-------------|-------------|-----------------------|
|---------------------|-----------|-------------|-------------|-----------------------|

For Official Use Only (FOUO) - Law Enforcement Sensitive

## CF Case Clocked-in

Clock Running 19 Days Elapsed

APSO [REDACTED]

[REDACTED] Principal ▼

## FBI NAME CHECK RESUBMIT

### STATUS

Completed (1/2) 05/23/2019 | 19 days

### RESULT

[REDACTED] 05/23/2019 | 19 days  
(b)(7)(e)

### NAMES SENT ▼

[REDACTED]

## TECS / NCIC RESUBMIT

| NAME - DOB | STATUS | RESULTS | RELATES? |
|------------|--------|---------|----------|
|------------|--------|---------|----------|

|            |                                   |            |           |
|------------|-----------------------------------|------------|-----------|
| [REDACTED] | Completed<br>05/23/2019   19 days | [REDACTED] | (b)(7)(e) |
|------------|-----------------------------------|------------|-----------|

Submitted by: Global  
05/23/2019

## History ►





La Palma Correctional Center, 5501 North La Palma Road, Eloy, AZ  
85131

(b)(6)

|                             |  |                        |            |
|-----------------------------|--|------------------------|------------|
|                             |  | Date                   | 06/12/2019 |
|                             |  | A-File                 |            |
| Name                        |  | Country of Citizenship |            |
| Place and Manner of Arrival |  | Date of Arrival        |            |

## To immigration judge:

- ☒ 1. The above-named alien has been found inadmissible to the United States and ordered removed pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act). A copy of the removal order is attached. The alien has requested asylum and/or protection under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded the alien does not have a credible fear of persecution or torture. The alien has requested a review of that determination in accordance with section 235(b)(1)(B)(iii)(III) of the Act and 8 CFR § 208.30(g).
- ☐ 2. The above-named alien arrived in the United States as a stowaway and has been ordered removed pursuant to section 235(a)(2) of the Act. The alien has requested asylum and/or withholding of removal under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded the alien does not have a credible fear of persecution or torture. The alien has requested a review of that determination in accordance with section 235(b)(1)(B)(iii)(III) of the Act.
- ☐ 3. The above-named alien arrived in the United States in the manner described below and has requested asylum and/or withholding of removal under the Convention against Torture. The matter is referred for a determination in accordance with 8 CFR § 208.2(c). Arrival category (check one):
- |                                              |                                              |                                                                         |
|----------------------------------------------|----------------------------------------------|-------------------------------------------------------------------------|
| <input type="checkbox"/> rewmember/applicant | <input type="checkbox"/> Crewmember/refused  | <input type="checkbox"/> Crewmember/landed                              |
| <input type="checkbox"/> rewmember/violator  | <input type="checkbox"/> VWP/applicant       | <input type="checkbox"/> VWP/violator                                   |
| <input type="checkbox"/> B5(c) order         | <input type="checkbox"/> S-visa nonimmigrant | <input type="checkbox"/> Stowaway: credible fear determination attached |
- ☐ 4. The above-named alien has been ordered removed by an immigration officer pursuant to section 235(b)(1) of the Act. A copy of the removal order is attached. In accordance with section 235(b)(1)(C) of the Act, the matter is referred for review of that order. The above-named alien claims to be (check one):
- |                                                                                       |                                                                                |
|---------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| <input type="checkbox"/> a United States citizen                                      | <input type="checkbox"/> a lawful permanent resident alien                     |
| <input type="checkbox"/> an alien granted refugee status under section 207 of the Act | <input type="checkbox"/> an alien granted asylum under section 208 of the Act. |
- ☐ 5. The above-named alien has been ordered removed pursuant to section 238(b) of the Act, or the Department of Homeland Security (DHS) has reinstated a prior exclusion, deportation, or removal order of the above-named alien pursuant to section 241(a)(5) of the Act. A copy of the removal order and, if applicable, the notice of reinstatement, are attached. The alien has expressed fear of persecution or torture and the claim has been reviewed by an asylum officer who has concluded the alien **does not** have a reasonable fear of persecution or torture. The alien has requested a review of that determination in accordance with 8 CFR §§ 208.31(f) and (g).
- ☐ 6. The above-named alien has been ordered removed pursuant to section 238(b) of the Act, or the DHS has reinstated a prior exclusion, deportation, or removal order of the above-named alien pursuant to section 241(a)(5) of the Act. A copy of the removal order and, if applicable, the notice of reinstatement, are attached. The alien has expressed fear of persecution or torture and the claim has been reviewed by an asylum officer who has concluded the alien **has** a reasonable fear of persecution or torture. The matter has been referred for a determination in accordance with 8 CFR § 208.31(e).
- ☐ 7. The Secretary of Homeland Security has determined that the release from custody of the above-named alien who is under a final order of removal would pose a special danger to the public according to the standards set in 8 CFR § 241.14(f)(1). The DHS has therefore invoked procedures to continue the alien's detention even though there is no significant likelihood that the alien will be removed from the United States in the reasonably foreseeable future. The matter is referred to the immigration judge for a review of this determination in accordance with 8 CFR § 241.14(g).

## NOTICE TO APPLICANT

You are ordered to report for a hearing before an immigration judge for the reasons stated above. Your hearing is scheduled on

To be determined at To be determined You are to appear  
 \_\_\_\_\_ at \_\_\_\_\_  
 (Date) (Time)

Tucson Immigration Court 300 W. Congress St. #300 Tucson, AZ 85701

(Complete office address)

- ☒ You may be represented in this proceeding, at no expense to the government, by an attorney or other individual authorized and qualified to represent persons before an Immigration Court. If you wish to be so represented, your attorney or representative should appear with you at this hearing. In the event of your release from custody, you must immediately report any change of your address to the Immigration Court on Form EOIR-33, which is provided with this notice. If you fail to appear for a scheduled hearing, a decision may be rendered in your absence.
- ☒ You may consult with a person or persons of your own choosing prior to your appearance in Immigration Court. Such consultation is at no expense to the government and may not unreasonably delay the process.
- ☒ Attached is a list of recognized organizations and attorneys that provide free legal service.

\_\_\_\_\_  
 (Signature and title of immigration officer)

## CERTIFICATE OF SERVICE

- ☒ The contents of this notice were read and explained to the applicant in the Spanish language.
- ☒ The original of this notice was delivered to the above-named applicant by the undersigned on \_\_\_\_\_ and the alien has been advised of communication privileges pursuant to 8 CFR 236.1(e). Delivery was made:
- ☒ in person ☐ by certified mail, return receipt # \_\_\_\_\_ requested ☐ by regular mail

\_\_\_\_\_  
 (Signature and title of immigration officer)

## Attachments to copy presented to immigration judge:

- |                                                                                                                                                                                                                                                                                                                 |                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Passport                                                                                                                                                                                                                                                                               | <input checked="" type="checkbox"/> Form I-860                                                     |
| <input type="checkbox"/> Visa                                                                                                                                                                                                                                                                                   | <input checked="" type="checkbox"/> Form I-869                                                     |
| <input type="checkbox"/> Form I-94                                                                                                                                                                                                                                                                              | <input type="checkbox"/> Form I-898                                                                |
| <input type="checkbox"/> Forensic document analysis                                                                                                                                                                                                                                                             | <input type="checkbox"/> Asylum Officer's reasonable fear determination worksheet (I-899)          |
| <input type="checkbox"/> Fingerprints and photographs                                                                                                                                                                                                                                                           | <input checked="" type="checkbox"/> Asylum officer's credible fear determination worksheet (I-870) |
| <input type="checkbox"/> EOIR-33                                                                                                                                                                                                                                                                                |                                                                                                    |
| <input type="checkbox"/> <b>FOR 8 CFR 241.14(f) CASES ONLY:</b> Written statement including summary of the basis for the Secretary's determination to continue the alien in detention, and description of the evidence relied on in finding the alien specially dangerous (with supporting documents attached). |                                                                                                    |
| <input type="checkbox"/> <b>FOR 8 CFR 241.14(f) CASES ONLY:</b> Written notice advising the alien of initiation of proceedings and informing alien of procedures governing the Reasonable Cause Hearing at 8 CFR 241.14(h).                                                                                     |                                                                                                    |
| <input type="checkbox"/> Other (specify): _____                                                                                                                                                                                                                                                                 |                                                                                                    |

## Record of Negative Credible Fear Finding and Request For Review by Immigration Judge

Alien File Number: (b)(6)

**1. To be explained to the alien by the asylum officer:**

U.S. Citizenship and Immigration Services (USCIS) has determined that you do not have a credible fear of persecution or torture pursuant to 8 CFR 208.30 for the following reason(s):

- A. ☒ You have not established a credible fear of persecution in your country of nationality, country of last habitual residence, or a country to which you have been ordered removed because:
- ☐ You have not indicated that you were harmed in the past and you have not expressed fear of future harm.
  - ☒ There is no significant possibility that you could establish in a full hearing that the harm you experienced and/or the harm you fear is on account of your race, religion, nationality, political opinion, or membership in a particular social group.
  - ☐ You have not indicated that you were harmed in the past, and there is no significant possibility that you could establish in a full hearing that the harm you fear is well founded.
  - ☐ There is no significant possibility that you could establish in a full hearing that the harm you experienced or fear was/is sufficiently serious to amount to persecution.
  - ☐ There is no significant possibility that you could establish in a full hearing that the entity that harmed you or would harm you was/is an agent of the government or an entity the government was/is unable or unwilling to control.

**AND**

- ☒ You have not established a credible fear of torture in a country to which you have been ordered removed because you have not established that there is a significant possibility that:
- ☐ You would suffer severe physical or mental pain or suffering.
  - ☒ The harm you fear would be specifically intended to inflict severe physical or mental pain or suffering.
  - ☐ The harm you fear would be inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity.
  - ☐ The harm you fear would be inflicted while you are in the custody or physical control of the offender.
  - ☐ The harm you fear would not arise only from, would not be inherent in, and would not be incidental to, lawful sanctions.
- B. ☒ Considering the totality of the circumstances and all relevant factors, you have not established that your testimony is credible.

Therefore, you are ordered removed from the United States. You may request that an Immigration Judge review this decision.

If you request that an Immigration Judge review this decision, you will remain in detention until an Immigration Judge reviews your case. That review could occur as long as 7 days after you receive this decision.

If you do not request that an Immigration Judge review the decision, you may be removed from the United States immediately.

**2. To be completed by the alien:**

- ☐ **Yes, I request Immigration Judge review** of the decision that I do not have a credible fear of persecution or torture.
- ☐ **No, I do not request Immigration Judge review** of the decision that I do not have a credible fear of persecution or torture.

(b)(6)

Applicant's Last Name/ Family Name (Print)

Applicant's First Name (Print)

Applicant's Signature

Asylum Officer's Last Name (Print)

Asylum Officer's First Name, (Print)

Date

The contents of this form were read and explained to the applicant in the Spanish language

Interpreter used:

By telephone (list interpreter service /ID number used \_\_\_\_\_).

In person (I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.)

Interpreter's Signature

Date

## Record of Determination/Credible Fear Worksheet

|                                                |                             |                     |                           |
|------------------------------------------------|-----------------------------|---------------------|---------------------------|
| PHO                                            | ZAR                         |                     |                           |
| District Office Code                           | Asylum Office Code          | Alien's File Number | Alien's Last/ Family Name |
| <b>Error! Reference source not found.SMITH</b> |                             | (b)(6)              |                           |
| Asylum Officer's Last Name                     | Asylum Officer's First Name | Alien's Nationality |                           |

*All statements in italics must be read to the applicant*

**SECTION I:**

**INTERVIEW PREPARATION**

(b)(6)

**Record of Determination/Credible Fear Worksheet**

---

|                                           |  |  |  |
|-------------------------------------------|--|--|--|
| Alien's File Number: <input type="text"/> |  |  |  |
|-------------------------------------------|--|--|--|

|  |  |  |  |                                 |                                |                                 |                                |
|--|--|--|--|---------------------------------|--------------------------------|---------------------------------|--------------------------------|
|  |  |  |  | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No |
|  |  |  |  |                                 |                                |                                 |                                |
|  |  |  |  |                                 |                                |                                 |                                |

Alien's File Number:



Alien's File Number

|     |                                         |     |                            |     |                                   |
|-----|-----------------------------------------|-----|----------------------------|-----|-----------------------------------|
| 5.1 | Asylum officer name and ID CODE (print) | 5.2 | Asylum Officer's Signature | 5.3 | Decision date                     |
| 5.4 | Supervisory asylum officer name         | 5.5 | Supervisor's Signature     | 5.6 | Date Supervisor Approved decision |

[illegible]

|                                |                                         |                       |
|--------------------------------|-----------------------------------------|-----------------------|
| <b>A Number:</b> [REDACTED]    | <b>Interview Date:</b> 6/12/2019        |                       |
| <b>Name:</b> [REDACTED] (b)(6) | <b>Asylum Officer:</b> Jane Smith       |                       |
| <b>Country:</b> [REDACTED]     | <b>Interpreter:</b> Transperfect #14314 |                       |
| <b>Asylum Office:</b> ZAR      | <b>Start:</b> 8:13 AM                   | <b>Stop:</b> 10:15 AM |

## QUESTIONS & ANSWERS

|                                     |
|-------------------------------------|
| <b>INTERVIEW INITIATED:</b> 8:13 AM |
|-------------------------------------|

### RECORD OF CREDIBLE FEAR INTERVIEW

The following notes are not a verbatim transcript of this interview. These notes are recorded to assist the individual officer in making a credible fear determination and the supervisory asylum officer in reviewing the determination. Please follow instructions and prompts carefully and remove any questions from the notes that are not asked during the interview. All information in brackets should be replaced with information specific to each individual applicant.

☐ **Interpreter placed under oath**

*Do you swear/affirm that you will truthfully, literally, and fully interpret the questions asked by the asylum officer and the answers given by the applicant; that you will not add to, delete from, comment on, or otherwise change the matter to be interpreted; and that you will immediately notify the officer in this case if you become aware of your inability to interpret in a neutral manner on account of a bias for or against the applicant or the applicant's race, religion, nationality, membership in a particular social group, or political opinion? Do you further affirm that you understand that all matters discussed in this interview are confidential and that you will not share what you hear today with any other person?*

**SWORN IN**

Introduction: My name is Officer Smith. I will be conducting your interview today. We are having this interview today because you have expressed a fear of returning to your country.

I will be asking many questions. If you do not understand a question, feel free to say so. If you do not know the answer to question, simply say that you do not know. This is a non-adverse interview, which means that I am not against you. During the interview, please tell the truth as much as possible so that we can help you in your claim. When answering questions please take pauses so that the interpreter can have a chance to tell you story. Please speak clearly. This interview is confidential. The only people that will see this interview is myself, the interpreter, and my supervisor.

| Question | Answer |
|----------|--------|
|          |        |

(b)(6)

Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number: [REDACTED]

Asylum Officer: Jane Smith

Interview Date: 6/12/2019

Page 1 of 12



*Do you swear/affirm that you will tell the truth, the whole truth, and nothing but the truth during your interview today?*

**SWORN IN**

☐ **Information in Section 1.28 of Form I-870 provided to applicant**

**INTERPRETER READ SECTION TO APPLICANT**

(b)(6)

| <i>Question</i> | <i>Answer</i> |
|-----------------|---------------|
|                 |               |

**Biographical Information**

(Record all required I-870 biographic information directly into the Form I-870. Record any other biographical questions asked below (e.g., education, occupation).)

| <i>Question</i> | <i>Answer</i> |
|-----------------|---------------|
|                 |               |

(b)(6)

Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number:

Asylum Officer: Jane Smith

Interview Date: 6/12/2019

Page 3 of 12

(b)(6)

**Information About Fear Claim**

| <i>Question</i> | <i>Answer</i> |
|-----------------|---------------|
|                 |               |

(b)(6)

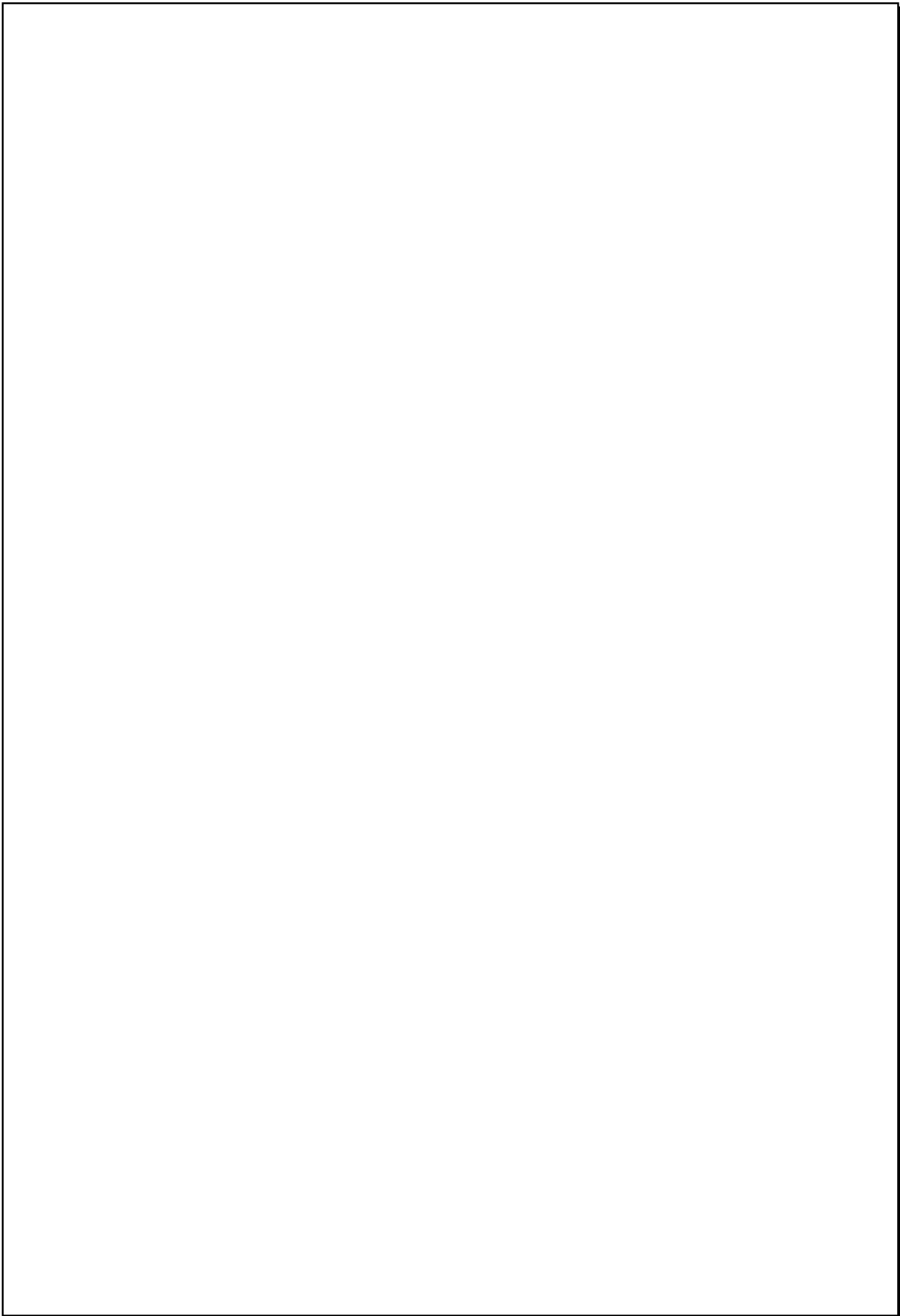
Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number:

Asylum Officer: Jane Smith

Interview Date: 6/12/2019

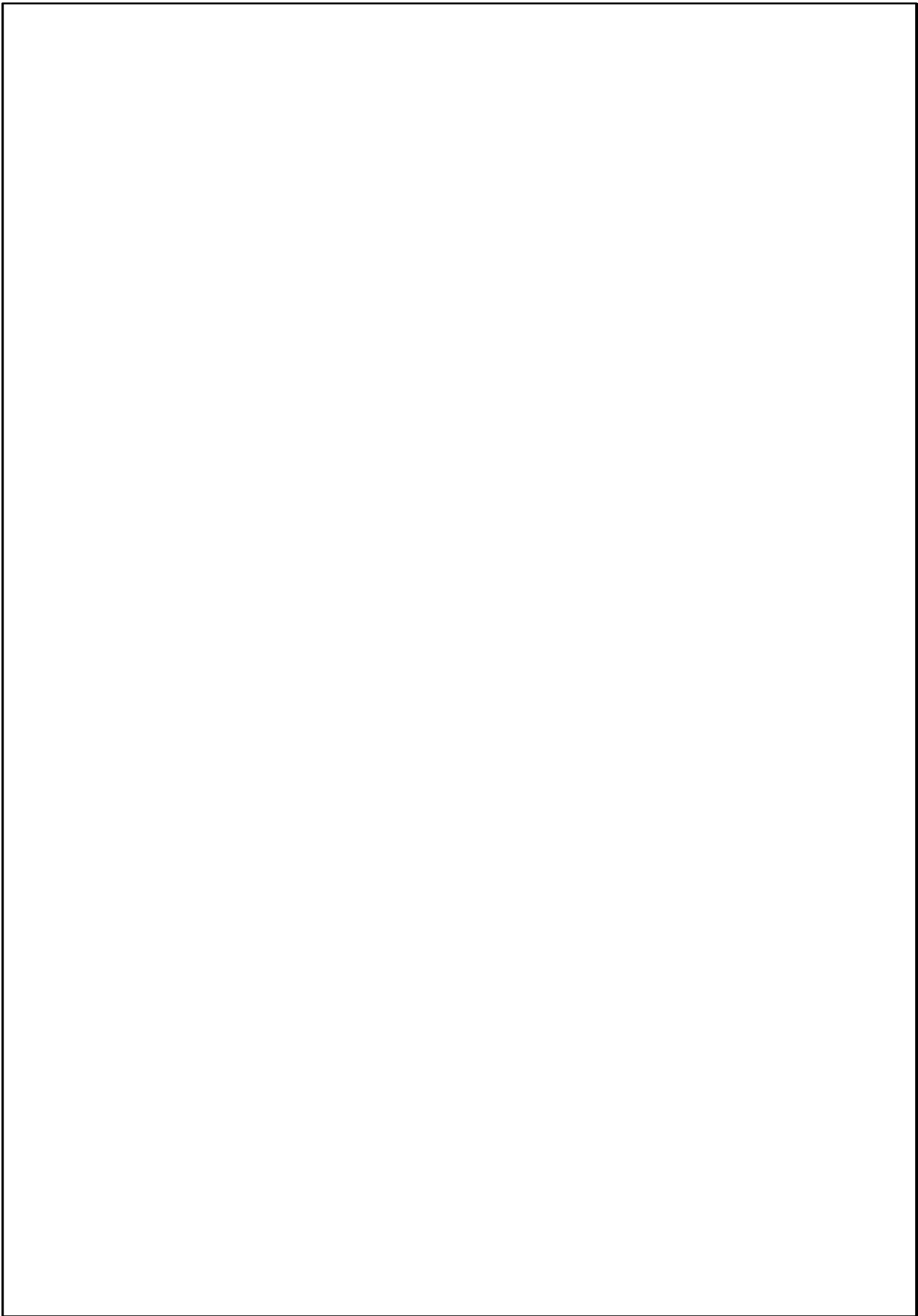
Page 4 of 12



(b)(6)

Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number:



(b)(6)

Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

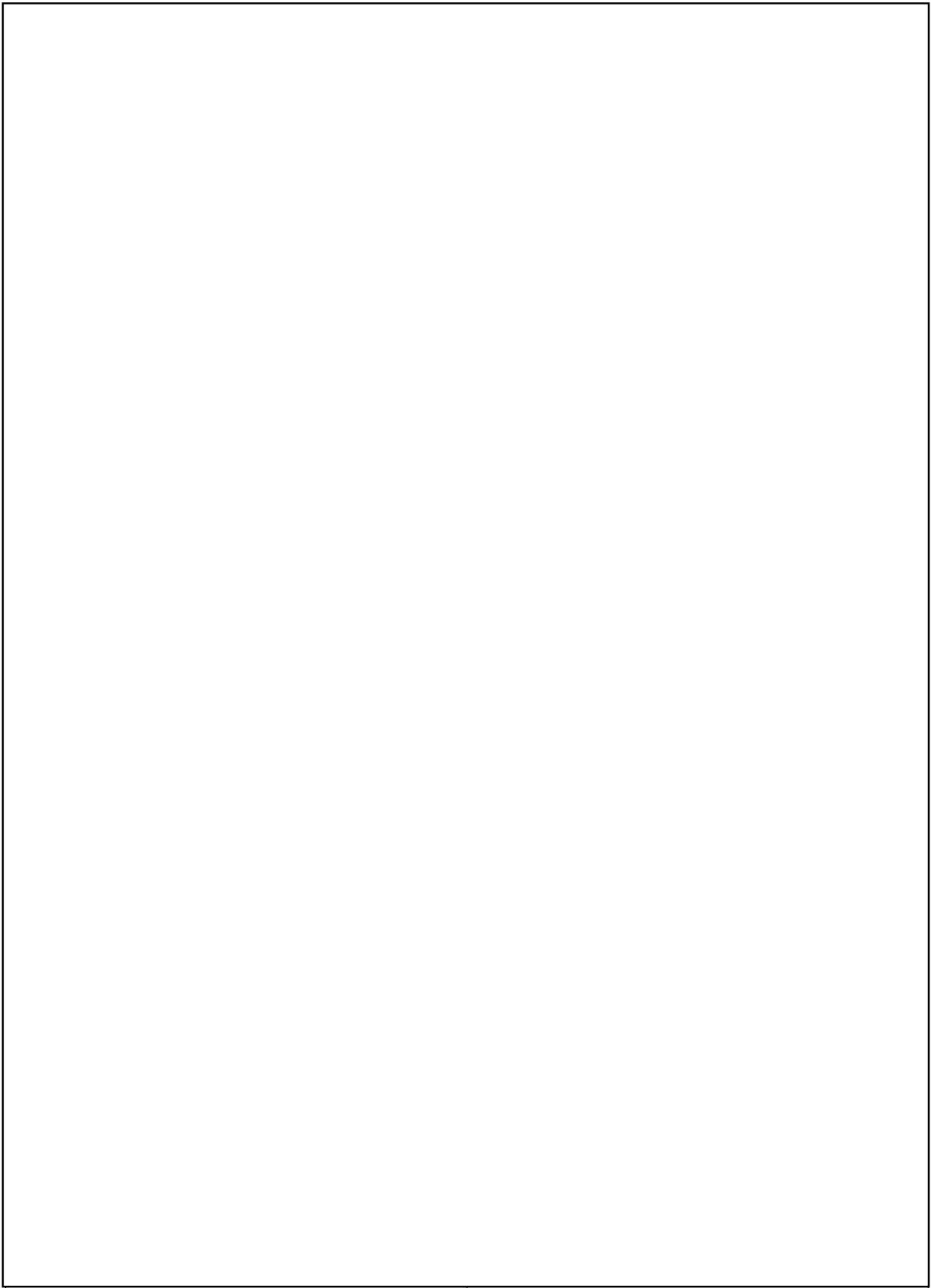
Number:

Asylum Officer: Jane Smith

Interview Date: 6/12/2019

Page 6 of 12





(b)(6)

Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number:

(b)(6)

**Additional Nexus Questions**

**I am going to be asking you these basic questions. It is a formality that we ask everyone these questions. I understand that they are off topic, we just have to ask them to everyone.**

| <i>Question</i> | <i>Answer</i> |
|-----------------|---------------|
|                 |               |

(b)(6)

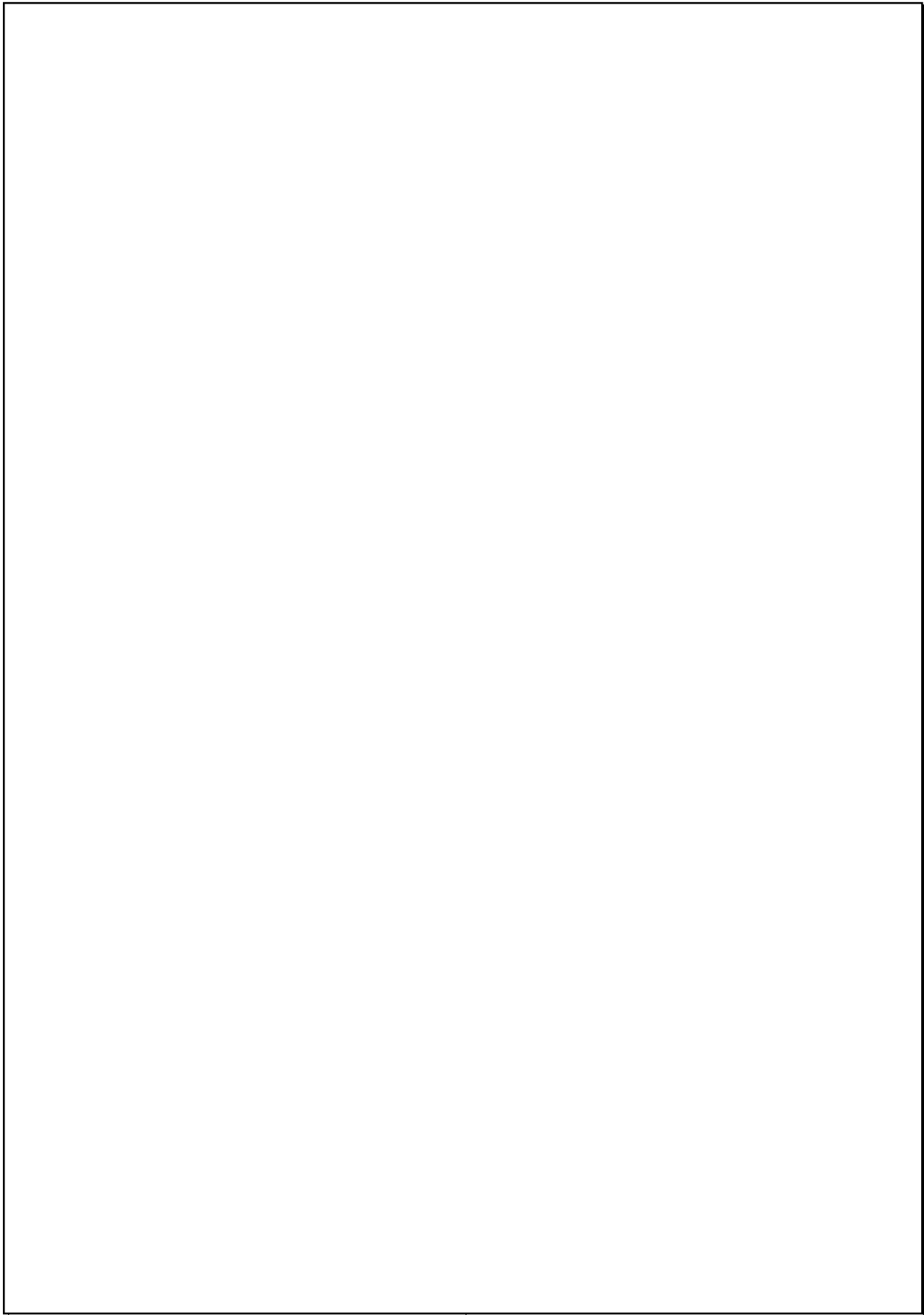
Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number:

Asylum Officer: Jane Smith

Interview Date: 6/12/2019

Page 8 of 12



(b)(6)

Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number:

Asylum Officer: Jane Smith

Interview Date: 6/12/2019

Page 9 of 12

|  |
|--|
|  |
|--|

(b)(6)

**Additional Follow-Up**

| <i>Question</i> | <i>Answer</i> |
|-----------------|---------------|
|                 |               |

(b)(6)

**Mandatory Bars**

| <i>Question</i> | <i>Answer</i> |
|-----------------|---------------|
|                 |               |

Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number:

(b)(6)

(b)(6)

|  |
|--|
|  |
|--|

**Concluding Questions**

| <i>Question</i> | <i>Answer</i> |
|-----------------|---------------|
|                 |               |

Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number:

Asylum Officer: Jane Smith

Interview Date: 6/12/2019

Page 11 of 12

(b)(6)

|  |  |
|--|--|
|  |  |
|  |  |

(b)(6)

Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number:  (b)(6)

**Summary of Testimony**

☐ **APSO summarized case as required by 8 CFR 208.30(d)(6)**

(b)(6)

**SUMMARY READ TO APPLICANT**

| <i>Question</i>                                      | <i>Answer</i> |
|------------------------------------------------------|---------------|
| Is this summary accurate?                            |               |
| Do you have any changes/corrections to this summary? |               |

☐ **Information in Section 3.2 of Form I-870 provided to applicant**

(b)(6)

**READ TO APPLICANT**

|                                                            |  |
|------------------------------------------------------------|--|
| Do you have any questions about what was just read to you? |  |
| Do you have any questions for me before we conclude?       |  |

**INTERVIEW CONCLUDED: 10:15 AM**

Applicant's Name: **Error! Reference source not found. Error! Reference source not found.;** A

Number:  

(b)(6)

(b)(7)(c)

## Record of Deportable/Inadmissible Alien

|                                                                                                                                                                                                                                                                                                                                          |  |                                                                                    |                                 |                                                                                        |                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------|---------------------------------|----------------------------------------------------------------------------------------|-------------------|
|                                                                                                                                                                                                                                                                                                                                          |  |                                                                                    |                                 |                                                                                        |                   |
|                                                                                                                                                                                                                                                                                                                                          |  |                                                                                    |                                 |                                                                                        |                   |
|                                                                                                                                                                                                                                                                                                                                          |  |                                                                                    |                                 |                                                                                        |                   |
|                                                                                                                                                                                                                                                                                                                                          |  |                                                                                    |                                 |                                                                                        |                   |
| NIV Issuing Post and NIV Number                                                                                                                                                                                                                                                                                                          |  | Social Security Account Name                                                       |                                 | Status at Entry                                                                        | Status When Found |
|                                                                                                                                                                                                                                                                                                                                          |  |                                                                                    |                                 | PWA Mexico                                                                             | TRAVEL/SEEKING    |
| Date Visa Issued                                                                                                                                                                                                                                                                                                                         |  | Social Security Number                                                             |                                 | Length of Time Illegally in U.S.                                                       |                   |
|                                                                                                                                                                                                                                                                                                                                          |  |                                                                                    |                                 | AT ENTRY                                                                               |                   |
| Immigration Record<br>NEGATIVE                                                                                                                                                                                                                                                                                                           |  |                                                                                    | Criminal Record<br>None Known   |                                                                                        |                   |
| Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)                                                                                                                                                                                                                                                                   |  |                                                                                    |                                 | Number and Nationality of Minor Children                                               |                   |
| Father's Name, Nationality, and Address, if Known<br>See Narrative                                                                                                                                                                                                                                                                       |  |                                                                                    |                                 | Mother's Present and Maiden Names, Nationality, and Address, if Known<br>See Narrative |                   |
| Monies Due/Property in U.S. Not in Immediate Possession<br>None Claimed                                                                                                                                                                                                                                                                  |  | Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Systems Checks<br>See Narrative | Charge Code Words(s)<br>I7A1                                                           |                   |
| Name and Address of (Last)(Current) U.S. Employer                                                                                                                                                                                                                                                                                        |  | Type of Employment                                                                 | Salary                          | Employed from/to                                                                       |                   |
|                                                                                                                                                                                                                                                                                                                                          |  |                                                                                    |                                 | Hr                                                                                     |                   |
| Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)<br>FINS #: I77 #: |  |                                                                                    |                                 |                                                                                        |                   |
| Left Index Print Right Index Print                                                                                                                                                                                                                                                                                                       |  |                                                                                    |                                 |                                                                                        |                   |
|                                                                                                                                                                                                                                                                                                                                          |  |                                                                                    |                                 |                                                                                        |                   |
| ARREST COORDINATES:<br>Latitude: 32.48016<br>Longitude: -114.76501<br>CONSEQUENCE DELIVERY SYSTEM:<br>Classification: FIRA                                                                                                                                                                                                               |  |                                                                                    |                                 |                                                                                        |                   |
| CREDIBLE FEAR CLAIM                                                                                                                                                                                                                                                                                                                      |  |                                                                                    |                                 |                                                                                        |                   |
| (b)(7)(c)                                                                                                                                                                                                                                                                                                                                |  |                                                                                    |                                 |                                                                                        |                   |
| Alien has been advised of communication privileges                                                                                                                                                                                                                                                                                       |  | 5/17/19                                                                            | (Date/Initials)                 | BOR DER PATROL AG (Signature)                                                          |                   |
| Distribution:                                                                                                                                                                                                                                                                                                                            |  | Received (Subject and Documents) (Report)                                          |                                 |                                                                                        |                   |
| Original to A file<br>Copy to Sector                                                                                                                                                                                                                                                                                                     |  | Officer: _____<br>on: _____<br>Disposition: _____<br>Examination: _____            |                                 |                                                                                        |                   |



|                                      |                            |                    |
|--------------------------------------|----------------------------|--------------------|
| Alien's Name<br><div>(b)(7)(c)</div> | File Number<br><div></div> | Date<br>05/17/2019 |
| Event No:<br><div></div>             |                            |                    |

## FATHER NAME AND ADDRESS:

## MOTHER NAME AND ADDRESS:

## RECORDS CHECKED:

CIS Negative

EARM IAFIS NCIC 

TECS Negative

(b)(7)(e)

## NARRATIVE:

## IMMIGRATION HISTORY:

 (b)(7)(c)

## CRIMINAL HISTORY:

FBI#

(see attachments)

## NARRATIVE:

(b)(7)(c)

Signature

Title

BORDER PATROL AGENT

2 of 3 Pages

|                                                                                     |           |                     |            |
|-------------------------------------------------------------------------------------|-----------|---------------------|------------|
| Alien's Name                                                                        | (b)(7)(c) | File Number         | Date       |
|                                                                                     |           | Event No:           | 05/17/2019 |
|                                                                                     |           |                     |            |
|                                                                                     |           |                     |            |
| Signature                                                                           |           | Title               |            |
|  |           | BORDER PATROL AGENT |            |

**Purpose of this notice**

The purpose of this notice is to explain what will happen while you are in detention, what rights you have, and what may happen to you as a result of statements you make. It is important that you understand your rights and what will happen. **PLEASE READ THIS NOTICE CAREFULLY.**

You have been detained because the U.S. Department of Homeland Security (DHS) believes that you may not have the right to stay in the United States. You have indicated an intention to apply for asylum or a fear of persecution or return to your country. You will be interviewed by a specially-trained asylum officer to determine if you have a "credible fear of persecution." You will be detained until that interview takes place. If the DHS finds that you have a credible fear of persecution, you may or may not be released.

**Right to consult with other persons**

Normally, the interview will not take place sooner than 48 hours after you arrive at the detention facility. You may use this time to rest and consult with family members, friends, or other representatives. In unusual circumstances, you may be given additional time to contact someone. If you need this additional time, you should inform a DHS officer. You may request that the interview take place sooner if you are prepared to discuss your fears or claim immediately.

You may consult with a person or persons of your choosing, provided that such consultation is at no expense to the government and does not delay the process. A person of your choice can be present with you at your interview. A list of representatives who may be able to speak to you free of charge is attached to this notice. You may use the telephone while you are in detention to call a representative, friend or family member in the United States, collect or at your own expense. If you wish to call someone, you should inform an DHS officer for assistance. You also may contact the United States Office of the United Nations High Commissioner for Refugees, at (202) 296-5191 from 9:00 a.m - 5:00 p.m. (eastern standard time), Monday thru Friday.

**Description of credible fear interview**

The purpose of the credible fear interview is to determine whether you might be eligible to apply for asylum before an immigration judge. This interview is not your formal asylum hearing. It is only to help us determine whether there is a significant possibility that you may qualify as a refugee.

At your interview, you will have the opportunity to explain to the asylum officer why you think you should not be returned to your home country. If you want to apply for asylum in the United States, or think you will be harmed, persecuted or tortured if you return to your home country, you must show an asylum officer that you have a credible fear of being harmed or persecuted because of your race, religion, nationality, membership in a particular social group or political opinion, or that it is likely that you will be tortured.

If the officer determines that you have a credible fear or persecution or that you might face torture if you are returned to your home country, you may be eligible to remain in the United States.

It is very important that you tell the officer all the reasons why you have concerns about returning to your home country or are afraid to return to your home country. There are regulations protecting the confidentiality of asylum claims.

It is also very important that you tell the truth during your interview. Although the purpose of this interview is not to gather evidence against you, failure to tell the truth could be used against you in this or any future immigration proceeding.

### Need for interpreter or special consideration

If you do not speak English well or if you prefer to be interviewed in your own language, DHS will provide an interpreter for the interview. The interpreter has been told to keep the information you discuss confidential. If the interpreter is not translating correctly or you don't feel comfortable with the interpreter, you may request another interpreter. The officer will take written notes.

If you will need to tell the asylum officer information that is very personal and very difficult to talk about, you may request a female officer and female interpreter, or a male officer and male interpreter. The DHS will provide them if they are available. You will also have the opportunity to speak with the asylum officer separately from your family if you so desire.

### Consequences of failure to establish credible fear and review of determination

If the asylum officer determines that you do not have a credible fear of persecution, you may request to have that decision reviewed by an immigration judge. The immigration judge's review will be in person or by telephone or video connection. The review will happen as soon as possible, to the maximum extent practicable within 24 hours, but in no case later than 7 days from the date of the asylum officer's decision. You may consult with a person or person of your choosing before the review by the immigration judge, provided it does not cause unreasonable delay. You will be given a copy of the asylum officer's record of determination to examine prior to the review by the immigration judge. If any of the information is incorrect, you should notify the immigration judge. The immigration judge may decide that you do have a credible fear and that you are eligible for a full asylum hearing before an immigration judge. If you are ordered removed, you may be barred from reentry to the United States for a period of 5 years or longer.

### Interpreter Certification

I [REDACTED] (name of interpreter) certify that I am fluent in both the SPANISH and English languages, that I interpreted the above information from English to SPANISH completely and accurately, and that the recipient understood my interpretation.

[REDACTED]  
Signature of interpreter

5/17/2019  
Date

### Alien Acknowledgment of Receipt

I acknowledge that I have been given notice concerning my credible fear interview. I understand that I may consult with a person or persons of my choosing prior to the interview as long as it does not unreasonably delay the process and is at no expense to the Government.

[REDACTED]  
Alien's signature

May 17, 2019  
Date



U.S. DEPARTMENT OF HOMELAND SECURITY  
**NOTICE TO ALIEN ORDERED REMOVED/DEPARTURE VERIFICATION**

A-File No: (b)(7)(c)

Date: 05/17/2019

Alien's name: (b)(7)(c)

You have been found to be inadmissible to the United States under the provisions of section 212(a) of the Immigration and Nationality Act (Act) or deportable under the provisions of section 237 of the Act as a Visa Waiver Pilot Program violator. In accordance with the provisions of section 212(a)(9) of the Act, you are prohibited from entering, attempting to enter, or being in the United States

- ☒ For a period of 5 years from the date of your departure from the United States as a consequence of your having been found inadmissible as an arriving alien in proceedings under section 235(b)(1) or 240 of the Act.
- ☐ For a period of 10 years from the date of your departure from the United States as a consequence of your having been ordered removed in proceedings under any section of the Act other than section 235(b)(1) or 240, or of being ordered excluded under section 236 of the Act in proceedings commenced prior to April 1, 1997.
- ☐ For a period of 20 years from the date of your departure from the United States as a consequence of being found inadmissible and being previously excluded, deported, or removed from the United States.
- ☐ At any time because in addition to being found inadmissible, you have been convicted of a crime designated as an aggravated felony.

After your removal has been effected, you must request and obtain permission from the Secretary of Homeland Security to reapply for admission to the United States during the period indicated. You must obtain such permission before commencing your travel to the United States. Application forms for requesting permission to reapply for admission may be obtained by contacting any United States Consulate or U.S. Department of Homeland Security office. Refer to the above file number when requesting forms or information.

**WARNING FOR ALL REMOVED ALIENS:** It is a crime under Title 18 United States Code, Section 1326, for an alien who has been removed from the United States to enter, attempt to enter, or be found in the United States without the Secretary of Homeland Security's express consent. Depending on the circumstances of the removal, conviction for this crime can result in imprisonment of a period of from 2 to 20 years and/or a fine up to \$250,000.

**SPECIAL NOTICE TO SEX OFFENDERS:** Federal Law requires a convicted sex offender, including an alien who has been removed from or otherwise departed the United States and subsequently returns, to register in each jurisdiction in the United States in which he or she resides, is employed, or is a student. Violation of this requirement can result in prosecution and imprisonment for up to 10 years under Title 18 United States Code, Section 2250.

(b)(7)(c)  
(Signature of officer serving warning)

BORDER PATROL AGENT

(Title of officer)

YUMA, ARIZONA

(Location of DHS Office)

**Verification of Removal**

(Complete this section for file copy only)

|                                |                   |                     |
|--------------------------------|-------------------|---------------------|
| Departure Date                 | Port of Departure | Manner of Departure |
| Signature of Verifying Officer |                   | Title of Officer    |

Photograph of Alien



Right Index Finger

(Signature of alien whose fingerprint and photograph appear above)

(Signature of official taking fingerprint)

## DETERMINATION OF INADMISSIBILITY

File No. 

Date: May 17, 2019

(b)(7)(c)

In the Matter of: 

Pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act), (8 U.S.C. 1225(b)(1)), the Department of Homeland Security has determined that you are inadmissible to the United States under section(s) 212(a) ☐ (6)(C)(i); ☐ (6)(C)(ii); ☒ (7)(A)(i)(I); ☐ (7)(A)(i)(II); ☐ (7)(B)(i)(I); and/or ☐ (7)(B)(i)(II) of the Act, as amended, and therefore are subject to removal, in that:

1. You are not a citizen or national of the United States;
2. You are a native of ; (b)(7)(c)
3. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act; To wit you illegally entered into the United States by crossing the Mexico/United States international boundary 2 miles east of the San Luis, Arizona Port of Entry. You were en-route to Orlando, Florida to illegally reside and work.

BORDER PATROL AGENT

Name and title of immigration officer (Print)

Signature of immigration officer

ORDER OF REMOVAL  
UNDER SECTION 235(b)(1) OF THE ACT

Based upon the determination set forth above and evidence presented during inspection or examination pursuant to section 235 of the Act, and by the authority contained in section 235(b)(1) of the Act, you are found to be inadmissible as charged and ordered removed from the United States.

BORDER PATROL AGENT

Name and title of immigration officer (Print)

Signature of immigration officer

Name and title of supervisor (Print)

Signature of supervisor, if available

☐ Check here if supervisory concurrence was obtained by telephone or other means (no supervisor on duty).

## CERTIFICATE OF SERVICE

I personally served the original of this notice upon the above-named person on \_\_\_\_\_  
(Date)

Signature of immigration officer

Record of Sworn Statement in Proceedings  
under Section 235(b)(1) of the Act

U.S. Department of Homeland Security

Office: YUMA, AZ, BORDER PATROL STATION

File No

Statement by:

(b)(7)(c)

In the case of:

Date of Birth:

Gender (select one): ☒ Male ☐ Female

At: YUMA, AZ, BORDER PATROL STATION

Date: May 17, 2019

Before:

(Name and Title)

BORDER PATROL AGENT

In the SPANISH

language. Interpreter NONE

Employed by

I am an officer of the United States Department of Homeland Security. I am authorized to administer the immigration laws and to take sworn statements. I want to take your sworn statement regarding your application for admission to the United States. Before I take your statement, I also want to explain your rights, and the purpose and consequences of this interview.

You do not appear to be admissible or to have the required legal papers authorizing your admission to the United States. This may result in your being denied admission and immediately returned to your home country without a hearing. If a decision is made to refuse your admission into the United States, you may be immediately removed from this country, and if so, you may be barred from reentry for a period of 5 years or longer.

This may be your only opportunity to present information to me and the Department of Homeland Security to make a decision. It is very important that you tell me the truth. If you lie or give misinformation, you may be subject to criminal or civil penalties, or barred from receiving immigration benefits or relief now or in the future.

Except as I will explain to you, you are not entitled to a hearing or review.

U.S. law provides protection to certain persons who face persecution, harm or torture upon return to their home country. If you fear or have a concern about being removed from the United States or about being sent home, you should tell me so during this interview because you may not have another chance. You will have the opportunity to speak privately and confidentially to another officer about your fear or concern. That officer will determine if you should remain in the United States and not be removed because of that fear.

Until a decision is reached in your case, you will remain in the custody of the Department of Homeland Security.

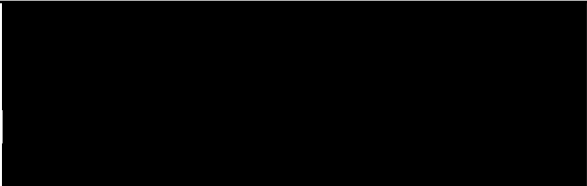
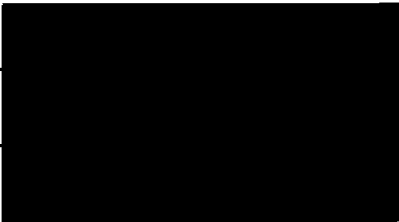
(b)(7)(c)

Any statement you make may be used against you in this or any subsequent administrative proceeding.

|                      |                     |              |
|----------------------|---------------------|--------------|
| Alien's Name         | Officer Number      | Date         |
| <div>(b)(7)(c)</div> |                     | May 17, 2019 |
| <div></div>          |                     |              |
| Signature            | Title               |              |
| <div></div>          | BORDER PATROL AGENT |              |

2 of 3 Pages



|                                                                                                  |                              |                      |
|--------------------------------------------------------------------------------------------------|------------------------------|----------------------|
| Alien's Name<br>(b)(7)(c)                                                                        | File Number<br>              | Date<br>May 17, 2019 |
|                                                                                                  |                              |                      |
|                 |                              |                      |
| Signature<br> | Title<br>BORDER PATROL AGENT |                      |

3 of 3 Pages

**Jurat for Record of Sworn Statement in  
Proceedings under Section 235(b)(1) of the Act**

(b)(7)(c)

I have read (or have had read to me) this statement, consisting of 1 pages (including this page). I state that my answers are true and correct to the best of my knowledge and that this statement is a full, true and correct record of my interrogation on the date indicated by the above named officer of the Department of Homeland Security. I have initialed each page of this statement (and the corrections noted on page(s)           ).

(b)(7)(c)

Signature: 

Sworn and subscribed to before me at YUMA, AZ, BORDER PATROL STATION  
on May 17, 2019.

**BORDER PATROL AGENT**

Signature of Immigration Officer 

Witnessed by: 

**Aguilar, Kimberly M**

---

**From:** Aguilar, Kimberly M  
**Sent:** Thursday, July 25, 2019 9:56 AM  
**To:** Miami Asylum Training; Klayman, Amy S; Timothee, Fritz G; McPherson, Yaniece A; Hanson, Greta E; Garrett, Natalie M  
**Cc:** Papazian, Varsenik L; Pueschel, Tracy W; Miami Asylum SAPSO  
**Subject:** FW: USBP Assignments Due July 23, 5:00 EST

Good morning All—

Here's the information about our two Border Patrol APSOs. They will report to ZMI for orientation on Monday, August 5, then report to our local the detention facilities for two weeks of ramp up training. After the two weeks, they are expected to be able to operate as APSOs at our local detention facilities until the end of their six month detail. The exact end date (which includes their HQ training period) for their detail to our office is forthcoming.

This situation is evolving so there will be more information forthcoming.

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Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
Phone:  (b)(6)

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**From:** Roberts, Rhonda J <Rhonda.J.Roberts@uscis.dhs.gov>  
**Sent:** Monday, July 22, 2019 7:22 PM  
**To:** Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>; Bardini, Emilia M <Emilia.M.Bardini@uscis.dhs.gov>; Berger, Jack S III <Jack.S.Berger@uscis.dhs.gov>; Bondy, Timothy <Timothy.Bondy@uscis.dhs.gov>; Boyle, Meghann W <Meghann.Boyle@uscis.dhs.gov>; Daum, Robert L <Robert.L.Daum@uscis.dhs.gov>; Elliott, John J <John.J.Elliott@uscis.dhs.gov>; Flanagan, Lisa M <Lisa.M.Flanagan@uscis.dhs.gov>; Foo, Rhonika A <rhonika.a.foo@uscis.dhs.gov>; Gadson, Irvin C <Irvin.C.Gadson@uscis.dhs.gov>; Gulati, Sonia <Sonia.Gulati@uscis.dhs.gov>; Haertling, Peter G <Peter.G.Haertling@uscis.dhs.gov>; Heinrich, Lorie R <Lorie.R.Heinrich@uscis.dhs.gov>; Hong, Marianne X <Marianne.X.Hong@uscis.dhs.gov>; Hussey, Jedidah M <Jedidah.M.Hussey@uscis.dhs.gov>; Isaacson, Mollie <Mollie.Isaacson@uscis.dhs.gov>; Kernan, Joseph E (Joe) <Joseph.E.Kernan@uscis.dhs.gov>; Kruszka, Robert F <Robert.F.Kruszka@uscis.dhs.gov>; Lehman, Danielle E <Danielle.E.Lehman@uscis.dhs.gov>; Madsen, Kenneth S <Kenneth.S.Madsen@uscis.dhs.gov>; Menges, Patricia A <Patricia.A.Menges@uscis.dhs.gov>; Mikesell, Hannah K <hannah.k.mikesell@uscis.dhs.gov>; Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>; Radel, David M <David.M.Radel@uscis.dhs.gov>; Raufer, Susan <Susan.Raufer@uscis.dhs.gov>; Rellis, Jennifer L <Jennifer.L.Rellis@uscis.dhs.gov>; Tyrell, Jody A <Jody-Ann.Tyrell@uscis.dhs.gov>; Varghese, Mathew C <Mathew.C.Varghese@uscis.dhs.gov>  
**Cc:** Lafferty, John L <John.L.Lafferty@uscis.dhs.gov>; RAIO - Asylum HQ Leadership <RAIO-AsylumHQLeadership@uscis.dhs.gov>; Alexander, Shannon <shannon.alexander@uscis.dhs.gov>; O'Malley, Robert L <robert.l.omalley@uscis.dhs.gov>  
**Subject:** USBP Assignments Due July 23, 5:00 EST

Good afternoon,

Thank you for responding to John's request to supervise the USBP agents participating in the CF for USBP training pilot.

Please review the proposed assignments below. In looking at the list below, we have endeavored to factor the number of agents that you indicated you were willing to take in your office, tried to keep CBP sectors together to the extent possible in order to promote operational consistency when agents are back in their sectors and receiving cases and feedback from an office, and attempted to account for scheduled leave and information the agents indicated that could impact ability to travel/detail. In assigning agents to offices with others from their sector, some preferences could not be honored. Agents in Cohort 3 are *italicized*. They will complete the pilot on July 26.

Please review and respond with **your confirmation by 5:00 EST on Tuesday, July 23, 2019**. If you have questions or concerns please reach out to Shannon Alexander, Bob O'Malley and me. Once the assignments are confirmed we will provide additional information.

**ZAR – EPT, YUM, TCA**

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Many thanks,  
Rhonda

**From:** Lafferty, John L <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)>

**Sent:** Tuesday, July 16, 2019 7:37 AM

**To:** RAIO - Asylum HQ Leadership <[RAIO-AsylumHQLeadership@uscis.dhs.gov](mailto:RAIO-AsylumHQLeadership@uscis.dhs.gov)>; RAIO - Asylum Field Office Managers <[RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov](mailto:RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov)>

**Subject:** Fwd: Draft Message to Field CBP assignments

Good morning,

The MOA and Delegation of Authority between USCIS and USBP were signed last week. They are attached for your reference.

Now that we are up and running again with the BP CF pilot, we are now in the process of planning deployments for the 25 USBP agents who recently participated in the Credible Fear Training.

The first group of 10 agents in cohort #1 have resumed conducting telephonic interviews this week at El Centro, under the supervision of the Arlington office.

The second cohort of 25 agents that completed training on June 28, 2019 are awaiting assignment. There are an additional 22 agents in the third cohort who will complete the training pilot on July 26, and will also need to be assigned.

Most of the agents are prepared to travel to an asylum office for additional ramp up and practicum for a two-week period, or possibly longer. Many of the agents are amenable thereafter to detail to detention facilities, asylum offices, or other sites in our jurisdiction for longer periods, particularly along the SWB, Newark/Boston and Pacific NW. The detail duration, inclusive of the 5-week training period, is not to exceed 6 months. Those who are not detailed to an office/detention facility will be conducting telephonic interviews from their home stations, spread generally across the northern and southern borders. Pursuant to regulation, the work must be reviewed by an SAO.

Each office conducting CF interviews is asked to take agents under your supervision. Please take into account your caseload, receipts, and understanding that the USBP agents will require ramp up and engagement from your staff to aid them in conducting screenings. You should approach working with them like you would any new hire. For any offices that take a larger number of agents, after assessing resources, HQASM will endeavor to provide additional support during their ramp up, if requested.

Please indicate your ability to take on the ramp up and training of USBP agents before assignments are made. You are expected to respond by COB tomorrow. We would like to be able to inform cohort #2 THIS WEEK of their assignments.

Please let us know if you have questions.

John

**Aguilar, Kimberly M**

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**From:** Aguilar, Kimberly M  
**Sent:** Friday, July 26, 2019 12:08 PM  
**To:** Klayman, Amy S; Timothee, Fritz G; Garrett, Natalie M; McPherson, Yaniece A; Miami Asylum Training  
**Cc:** Papazian, Varsenik L; Pueschel, Tracy W; Miami Asylum SAPSO; Miami Asylum SAO  
**Subject:** RE: USBP Detailees to ZMI

Hi All--

In light of the assessment generator training, if our APSO numbers permit, the Krome and BTC teams will report to ZMI to participate in the training. As such, we will plan to have Agents Vasquez and Baez report to ZMI on Monday, August 5 and Tuesday, August 6.

Regards,

---

Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
Phone: [REDACTED] (b)(6)

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**From:** Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>  
**Sent:** Friday, July 26, 2019 11:21 AM  
**To:** Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; Timothee, Fritz G <Fritz.G.Timothee@uscis.dhs.gov>; Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>; McPherson, Yaniece A <Yaniece.A.McPherson@uscis.dhs.gov>; Miami Asylum Training <miamiasylumtraining@uscis.dhs.gov>  
**Cc:** Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>; Miami Asylum SAPSO <Miami-Asylum-SAPSO@uscis.dhs.gov>; Miami Asylum SAO <MiamiAsylumSAO@uscis.dhs.gov>  
**Subject:** USBP Detailees to ZMI

Good morning All--

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As you are already aware, the Asylum Division undertook a pilot program to train Border Patrol agents to make credible fear determinations. ZMI will be hosting two Border Patrol Agents from the Miami Sector for the practical training portion of their credible fear training starting August 5. They are [REDACTED] (Jacksonville Station) and [REDACTED] (Riviera Beach Station). The HQ training included class room theoretical lectures and mock interviews on how to make credible fear determinations. They are now coming to us for practical training. ZMI will have them working at our local detention facilities. HQ will provide us with the exact end date for their six-month USCIS detail which includes the time they have already spent in training in DC.

RAIO Travel is handling all of their Concur actions. They will travel to Miami on Sunday, August 4, report to ZMI on Monday, August 5, and participate in the general onboarding orientation processing along with the other new ZMI employees. On August 6, Agent [REDACTED] will report to BTC, and Agent [REDACTED] will report to Krome. They will work 10

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hours days, five days a week. They will undergo a two-week ramp up period at the end of which they are expected to be able to conduct CF determinations independently. Some other Asylum Offices are having their detailees conduct telephonic interviews from the Asylum Office or remotely from the Agent's home station. The plan for us is that they will spend the duration of their detail making CF determinations at either Krome or BTC. Amy and the SAPSOs will make any necessary staffing changes to accommodate the inclusion of the Agents on the APSO team. Please note that Agent [REDACTED].

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I will keep you posted as additional information becomes available. In the meanwhile, please let me know if you have any questions, comments or concerns. If I am unable to answer, I will elevate them to HQ.

Regards,

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Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
Phone: [REDACTED] (b)(6)

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**Pueschel, Tracy W**

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**From:** Pueschel, Tracy W  
**Sent:** Friday, August 2, 2019 11:01 AM  
**To:** Papazian, Varsenik L; Aguilar, Kimberly M; Klayman, Amy S; Timothee, Fritz G; Hanson, Greta E; McPherson, Yaniece A; Garrett, Natalie M  
**Subject:** Notes from Border Patrol Detail/Asylum HQ conference call today  
**Attachments:** Asylum HQ call BP 20190802.docx

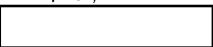
Good afternoon,

Please see the attached notes from today's call with HQ regarding the Border Patrol Agents. If you have any questions or need clarification on anything in them, please let me know.

Thanks.

---

Tracy Pueschel, Chief of Staff  
USCIS | Miami Asylum Office  
1501 Biscayne Boulevard, Suite 300  
Miami, FL 33132



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#### Intro comments

- BPAs are non-bargaining unit employees. Some are staying for just a few weeks. They received abbreviated training. BPs six months including training period. September 20<sup>th</sup> is last day. BP are not to be armed when conducting in person interviews but otherwise can have their weapons.
- 10 hours a day mandatory five days a week. Comp time if beyond that time if CBP is willing to pay for this/extend this (HQ will get back to us on the comp time and additional OT question).
- HQ will send these instructions in writing

#### Ramp Up

- Minimal plan: Local office orientation, Review of Security Checks process. No rigid schedule or productivity. Idea is to assist them in understanding the process.
- Similar process to get them ramped up (as Refugee Officers). Approach will be sent out by HQ. BPs are doing best to understand process.

#### Managing Expectations

- Many questions and be sure they follow the rules of road (orientation, follow up questions). First 10 who went through process are not interviewing as many people as AOs (2 people per day). No one is getting sent home if can't do more than two/day.
- However, it is expected that they will be held to the same quality standards as USCIS AOs. It is likely that additional supervisory staff to assist.
- They will not do anything but CF (no other protection screening).

#### Feedback and tracking progress

- Supervisors will provide same type of feedback as they would for AO (aside from productivity), as there is a process in the MOA for taking people off of the project.
- BPs are highly motivated to do this right

#### Evaluator Feedback and tips for SAOs

- Suggested template building session and to work with your forms and processes.
- Note taking and typing are issues. Interviewers did not capture all of what was said. Be sure to have system to check to see if notes are legally sufficient before interview is completed.
- Assist in accessing ECN.
- Spend time on technical issues on Monday.
- Systems access (all should have system access such as GLOBAL, RAILS, etc). If not, please contact Asylum Training b/c it has POCs to get it done quickly.
- Be aware that they are allowed to workout 3 hours per week (possibly during ramp up period). Three hours does not include shower and prep time.
- They may have Mandatory trainings (gun qualifications, etc)
- Leave concerns
- Few supervisors should be supervising/working with them. HQ will schedule regular calls for questions and sharing best practices.

Teleconference regarding Border Patrol Agent Detailers

Asylum HQ

August 2, 2019

- No standard feedback method (not like our folks or RAD). We have not been required to provide feedback. However, this may come up later so be on the safe side do feedback and rating.

MPP (no other screening processes other than CF)

Detailing to detention facilities (return trips): Send dates and locations to RAIO Travel

Weapons policy: concealed/carry weapons. If carry then must be concealed.

Agent Schedules: Talk with each Agent. Most officers are expecting to be assigned remotely (not ZMI situation)

Pilot Duration: 1<sup>st</sup> Cohort ends in November; 2<sup>nd</sup> Cohort ends in December

Travel Authorizations/Vouchers have to go through RAIO Travel. There is RAIO Cred Fear mailbox. They are invitational travelers and are not in Concur. Just get dates and places and RAIO travel will work with them.

**Klayman, Amy S**

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**From:** Klayman, Amy S  
**Sent:** Monday, August 5, 2019 7:02 AM  
**To:** Talamantes, Eudelia A  
**Subject:** FW: CF for USBP Ramp Up Draft  
**Attachments:** CF for USBP Training and Ramp-Up Requirements and Schedules 8.2.19.docx

Hi,

As we briefly discussed, attached please find the suggested training plan for the Border Patrol TDYers. It was reinforced from HQ that we provide them with additional training, as much as necessary, to get them up to speed, and per HQ, the TOs should be involved. Of particular note is the need for Security Checks, Global, and forms training; from the call, it sounds like they might not have been provided with as much of this as necessary during their training time at ZLA/ZAR. Another specific item that was mentioned was the development of a notes template for them. FYI, this would be considered "Week 1" of the In-Field Training Program.

Let's discuss further, but I wanted you to have a look at what Rhonda circulated on Friday.

Thanks,

Amy

**From:** Roberts, Rhonda J <Rhonda.J.Roberts@uscis.dhs.gov>  
**Sent:** Friday, August 2, 2019 6:40 PM  
**To:** Hussey, Jedidah M <Jedidah.M.Hussey@uscis.dhs.gov>; Alexander, Shannon <shannon.alexander@uscis.dhs.gov>; Lafferty, John L <John.L.Lafferty@uscis.dhs.gov>; O'Malley, Robert L <robert.l.omalley@uscis.dhs.gov>; Caudill-Mirillo, Ashley B <Ashley.Caudill-Mirillo@uscis.dhs.gov>; Haertling, Peter G <Peter.G.Haertling@uscis.dhs.gov>; Daum, Robert L <Robert.L.Daum@uscis.dhs.gov>; Heinrich, Lorie R <Lorie.R.Heinrich@uscis.dhs.gov>; Gulati, Sonia <Sonia.Gulati@uscis.dhs.gov>; Lehman, Danielle E <Danielle.E.Lehman@uscis.dhs.gov>; Zeleke, Aster N <Aster.Zeleke@uscis.dhs.gov>; Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; Tyrell, Jody A <Jody-Ann.Tyrell@uscis.dhs.gov>; Radel, David M <David.M.Radel@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>; Raufer, Susan <Susan.Raufer@uscis.dhs.gov>; Boyle, Meghann W <Meghann.Boyle@uscis.dhs.gov>; Dhanjal, Manpreet S <Manpreet.S.Dhanjal@uscis.dhs.gov>; Mikesell, Hannah K <hannah.k.mikesell@uscis.dhs.gov>; Bondy, Timothy <Timothy.Bondy@uscis.dhs.gov>; Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>; Gadson, Irvin C <Irvin.C.Gadson@uscis.dhs.gov>; Isaacson, Mollie <Mollie.Isaacson@uscis.dhs.gov>; Hong, Marianne X <Marianne.X.Hong@uscis.dhs.gov>; Madsen, Kenneth S <Kenneth.S.Madsen@uscis.dhs.gov>; Rellis, Jennifer L <Jennifer.L.Rellis@uscis.dhs.gov>; Flanagan, Lisa M <Lisa.M.Flanagan@uscis.dhs.gov>; Kruszka, Robert F <Robert.F.Kruszka@uscis.dhs.gov>; Bardini, Emilia M <Emilia.M.Bardini@uscis.dhs.gov>; Hemming, Bryan D <Bryan.D.Hemming@uscis.dhs.gov>; Douglas, Audrey M <Audrey.M.Douglas@uscis.dhs.gov>; Motolenich Torres, Catherine <catherine.motolenichtorres@uscis.dhs.gov>; Timothee, Fritz G <Fritz.G.Timothee@uscis.dhs.gov>; Brodrecht, Anna M <anna.m.brodrecht@uscis.dhs.gov>; Carter, Lovely L <lovely.l.carter@uscis.dhs.gov>; Sellung, Ashlee <ashlee.sellung@uscis.dhs.gov>; Fairbank, Christina <Christina.Fairbank@uscis.dhs.gov>; Berger, Jack S III <Jack.S.Berger@uscis.dhs.gov>; Robinson, Joi L <Joi.L.Robinson@uscis.dhs.gov>; Jackson, Yolanda <Yolanda.Jackson@uscis.dhs.gov>; Powless, Crystal Y <Crystal.Y.Powless@uscis.dhs.gov>  
**Subject:** RE: CF for USBP Ramp Up Draft

Thanks to all for your feedback and comments. Please see the revised version updated to reflect additional flexibility, while maintaining uniform elements.

Good luck to all on Monday! Keep us posted if you need anything along the way. Shannon, Bob, and I are here for you.

Have a good weekend,  
Rhonda

**From:** Hussey, Jedidah M <[Jedidah.M.Hussey@uscis.dhs.gov](mailto:Jedidah.M.Hussey@uscis.dhs.gov)>

**Sent:** Friday, August 02, 2019 1:20 PM

**To:** Alexander, Shannon <[shannon.alexander@uscis.dhs.gov](mailto:shannon.alexander@uscis.dhs.gov)>; Roberts, Rhonda J

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**Subject:** RE: CF for USBP Ramp Up Draft

Shannon,

Thanks for sending this along. We are concerned that we are just now seeing an expectation that the CBP agents receive 2 CF guided during week 2 (noting they can begin in week 1). This is in addition to the observed interviews that they already had during their four-week training program. We had planned on starting with an observed interview in their first week to gauge where they are, and to make a case-by-case decision regarding additional observed interviews. With 7 agents coming to us next week (4 in our group have delayed ramp-up with leave), this is a heavy lift.

Is there room for more discretion in determining whether an agent requires more than one observed/guided interview based on how they are doing?

Thanks,  
Jeddy

**From:** Alexander, Shannon <[shannon.alexander@uscis.dhs.gov](mailto:shannon.alexander@uscis.dhs.gov)>

**Sent:** Friday, August 2, 2019 12:32 PM

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**Subject:** CF for USBP Ramp Up Draft

Good Morning/Afternoon Everyone,

The draft ramp up is attached. Please review and send any comments, issues and concerns to me, Rhonda and Bob as soon as you can.

Thank you!

Best,

Shannon

**From:** Roberts, Rhonda J <[Rhonda.J.Roberts@uscis.dhs.gov](mailto:Rhonda.J.Roberts@uscis.dhs.gov)>

**Sent:** Friday, August 02, 2019 10:52 AM

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DHS-19-1398-A-000094

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**Subject:** RE: BP

Good morning,

We will touch base on:

- Ramp Up
- Managing Expectations
- Feedback and tracking progress
- Evaluator Feedback and tips for SAOs
- MPP
- Detailing to detention facilities (return trips)
- Weapons policy
- Agent Schedules
- Pilot Duration
- Laptops and Tech

Talk soon!

Rhonda

-----Original Appointment-----

**From:** Stanley, Rhonda R (CTR)

**Sent:** Friday, August 02, 2019 8:37 AM

**To:** Stanley, Rhonda R (CTR); Lafferty, John L; Alexander, Shannon; O'Malley, Robert L; Caudill-Mirillo, Ashley B; Roberts, Rhonda J; Haertling, Peter G; Daum, Robert L; Heinrich, Lorie R; Gulati, Sonia; Lehman, Danielle E; Zeleke, Aster N; Papazian, Varsenik L; Klayman, Amy S; Tyrell, Jody A; Radel, David M; Pueschel, Tracy W; Raufer, Susan; Boyle, Meghann W; Dhanjal, Manpreet S; Mikesell, Hannah K; Bondy, Timothy; Aguilar, Kimberly M; Gadson, Irvin C; Hussey, Jedidah M; Isaacson, Mollie; Hong, Marianne X; Madsen, Kenneth S; Rellis, Jennifer L; Flanagan, Lisa M; Kruszk, Robert F; Bardini, Emilia M; Hemming, Bryan D; Douglas, Audrey M; Motolenich Torres, Catherine; Timothee, Fritz G; Brodrecht, Anna M; Carter, Lovely L; Sellung, Ashlee; Fairbank, Christina; Berger, Jack S III; Robinson, Joi L; Jackson, Yolanda

**Subject:** BP

**When:** Friday, August 02, 2019 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** John's Office

Asylum Dial in Number:

Toll-Free Phone Number:

Toll Number: (b)(6)

Leader: (b)(6)



Participant:

(b)(6)

**Training and Ramp-Up Requirements for**  
**USBP Agents Conducting Credible Fear**  
**Interviews for the Asylum Division**

## Contents

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## Introduction

This document outlines a training and ramp-up program that Asylum Division field offices are required to use when USBP Agents are deployed to the field offices to conduct credible fear interviews. This in-field training and ramp-up requirement is intended to standardize the training provided to the agents across all of the field offices by providing minimum requirements. This will give both the asylum offices and the agents a baseline of training provided based on experience level. It will also help provide a foundation to aid agents in conducting legally sufficient interviews and screening determinations after a brief training period. Offices can, and are encouraged to, go beyond these minimal requirements.

## Agents Conducting Credible Fear Interviews for the First Time (and if there should be a break of over 12-Weeks)

Credible Fear Training for USBP Agents (CF for USBP)<sup>i</sup> is a training program intended to prepare USBP agents with no prior formal asylum training to conduct credible fear screenings under supervisory review at Asylum Division field offices and detention locations where Asylum Officers conduct credible fear interviews, and remotely on behalf of the Asylum Offices. The training is comprised of:

- 1) **Distance Training:** Agents familiarize themselves with the asylum specific lesson plan guidance by reading required materials during distance training. Approximately 80 hours was allotted to complete the reading. *See CF for USBP Syllabus.*
- 2) **CF for USBP Classroom Instruction:** Agents receive approximately 15 face-to-face training days. The face-to-face training includes lectures, practical exercises, mock interviews and observed credible fear interviews. This portion of the training focuses on preparing the agents to conduct credible fear interviews, prepare legally sufficient checklist determinations, and understand substantive and procedural requirements of credible fear adjudications. *See schedules and materials at CF for USBP.*
- 3) **Credible Fear In-Field Training Program:** Agents receive on the job training at the asylum office responsible for reviewing their cases. The minimum requirements for the In-Field Training are outlined below.

The In-Field Training Program is a crucial element in the successful transitioning of USBP agents to assist with work in the Asylum Division. The on-the-job training provided by the field will reinforce the materials that agents received during the classroom instruction portion of CF for USBP. This reinforcement will assist agents in adjusting to the office procedures and varied workloads at each asylum office.

Credible fear cases are time sensitive, as the applicants are generally detained and the workload constantly shifts due to receipts. Accordingly, this in-field training is intended to be a flexible model that provides agents with the additional practical training required to prepare them to complete full workloads. The required elements of the In-Field Training Program are outlined here to ensure that agents have a training experience in all offices that includes on-the-job training, guidance on local procedures, and a ramp up interviewing schedule. This serves as the *minimum* required training a USBP agent should receive on her or his first credible fear deployment. Additional training may be given in the discretion of the Field Office.

## Required Elements of CF for USBP In-Field Training Program

### *Field Office Orientation*

- Provide orientation (TOs, SAOs, Sr. AOs, or designated staff):
  - Orient USBP agents to the physical facility, emergency protocols, operations, schedules, office procedures, points of contact in local office for substantive and procedural issues. Ensure the USBP agents understand the language vendor assignments as this may vary among offices. Direct them to your local LSA if you have one. Agents should verify that they have interpreter PINs for all three language services and access to the ECN interpreter log. Agents should use the HQ Dial Up Instructions. They can be found on the CF for USBP ECN site.
- Q&A session (TOs, SAOs, Sr. AOs or designated staff):
  - Give USBP agents an opportunity to ask questions regarding local procedures or outstanding questions regarding Asylum policy and procedures.

### *Template and Forms Orientation*

- Provide instruction on templates, form fillers, and other tools used locally.
- Provide instruction on local workflow procedures and points of contact.

### *Security Checks*

- Verify access to all necessary security systems (TOs or designated staff):
  - Many USBP agents received systems access during Credible Fear for USBP Training. Please confirm that USBP agents have systems access to perform the security checks required for APSO. This should occur on the agents' first day of in order to allow time to address access issues that might present. In the event there are questions regarding systems access, please email the Asylum Training Coordinators inbox [ [asylumtraining-coordinators@uscis.dhs.gov](mailto:asylumtraining-coordinators@uscis.dhs.gov) ] with a complete list of agent's names and systems access issues.
- Security checks overview (TOs or designated staff):
  - Security checks are best learned in a hands-on setting. Agents received initial training in security checks during the practicum in face to face training. Facilitate ongoing security checks orientation and procedures as conducted and performed in the local asylum office.
  - For more information on the security checks training provided at training please see the schedule and materials at CF for USBP agents. The materials are located at Day 4 and in the Adjudicative Aids.

## ***APSO Case Management Practicum***

- GLOBAL APSO Case Management System (TOs or designated staff):
  - USBP agents received training on Global at CF for USBP. Case entry is best learned as a hands-on activity. Facilitate agents' understanding of Global and accuracy in updating case information.
  - For more information on the Global Overview training provided at CF for USBP please see the schedule and materials at the CF for USBP agents page.
  - If there are Global access or permissions issues, please email the Asylum Training Coordinators inbox [ [asylumtraining-coordinators@uscis.dhs.gov](mailto:asylumtraining-coordinators@uscis.dhs.gov) ] with the Agent's name and issue.

## ***Interview Observations***

- Observe a Credible Fear interview
  - For agents who completed face-to-face training immediately before the in-field training, observed interviews may not be necessary, as agents observed interviews in their initial training. However, for those who have a significant delay between initial training and the in-field training (for example due to intervening leave or having been subject to moratorium pursuant to the signing of the MOA), observing an interview may be helpful for more rapid reorientation to Credible Fear interviews and screenings.
  - If conducted, TOs match Agents with interviewing/experienced AOs. USBP agents observe and take notes, but do not ask the applicant questions during the interview.
- Complete associated paperwork and determination checklist for each case observed:

After observation, USBP agents complete the accompanying paperwork and decisional checklist, using their own notes taken during observation. The completed file should be submitted to the TOs, or designated POC, by COB. TOs, or designated POC, provide feedback to USBP agents the following day.

## ***Observed Interviews***

- USBP agent conducts Credible Fear interview(s):
  - TOs, Sr. AOs, SAOs observe credible fear interview(s) conducted by USBP agents and provide feedback on interview techniques and issue recognition. The observer may interrupt or ask questions to ensure the interview is legally sufficient and complete. The number of observed interviews will be determined at office discretion, factoring legal sufficiency.
- USBP agent completes case(s):
  - USBP agent completes case paperwork, security checks, and decisional checklist of the case interviewed. The completed file should be turned into the TO, or designated POC, by COB. TOs, or designated POC, should provide feedback to USBP agents the following day.

- Interview and Decision Feedback (TOs, designated POC): The designated POC meets with USBP agent to provide feedback on the interview and decision turned in the day prior. Feedback should be provided using parameters of the PPA Companion Guideline document and local procedures for evaluating new officers but should not contain a score for the feedback, as this feedback is being provided during a training period and will not be used for performance evaluation.

### ***Ramp-up Interviewing Period***

- Credible Fear ramp-up phase (TOs, SAOs, Sr. AOs or designated staff):
  - USBP agents will be placed on a reduced interview schedule in order to aid their ability to accurately and efficiently complete credible fear cases and to receive feedback. This ramp up may be combined with the interview observations outlined above.
  - During the ramp-up period, offices must designate the point of contact for USBP agents in case of questions or if there is need for additional support. This will help facilitate acclimation to the office procedures as well as to the credible fear interview and decision requirements.
  - During the ramp-up period, offices must designate one or two SAOs/SAPSOs to review cases completed by USBP agents. When operationally feasible, designated supervisors should be dedicated solely to review of USBP agents' cases and offering feedback and guidance to USBP agents during this in-field training.
  - Asylum offices will determine when the agent is prepared to take on additional cases building toward the ability to conduct a full caseload.

### **Additional Trainings and Recommendations**

#### ***Ongoing Training***

- Weekly Asylum Training (as scheduled in your office)
  - Invite detailed USBP agents to participate in scheduled weekly office trainings in order to help keep them abreast of legal or procedural updates to improve their understanding and adjudications.

#### ***Recommendations***

HQ strongly encourages offices to delegate a group of SAOs to review USBP cases throughout the agents' detail as opposed to employing a triage system of case review. This will help ensure that progress can be measured over time on consistent guidance provided by the supervisors.

Please assign a Senior AO **mentor** to USBP agents for the duration of their duties, as an extra POC for guidance and support. You may modify the Senior AO's interview schedule and collateral duties in order to fulfill this role.



To improve efficiency and consistency, consider providing (on day 1) **sample written checklists that include relevant COI** for the most commonly seen claims in your office and notes templates.

During the ramp-up and training period, TOs should check in with the Agents on a daily basis to ensure that assignments are being completed in a timely manner and questions are being answered as they arise.

***Suggested but not required - Shadow a Senior AO or AO***

- Shadowing (SR. AOs or designated AOs)
  - USBP agents are assigned alone or in pairs depending on resources and number of detailees, to shadow an AO or Sr. AO on an APSO interview day. This should include observing pre-interview preparation, telephonic procedures (as applicable), and post-interview processing and other activities performed by the AO throughout the day. The purpose is to model the flow of the work day and local procedures.

---

<sup>i</sup> Completion of CF for USBP is required for purposes of an Asylum CF detail and is not a substitute for the Asylum Division Officer Training Program (ADOTP), a requirement for employment as an Asylum Officer. (See: Job Vacancy Announcement and RAO Directorate Officer Training HANDBOOK).

**From:** Aguilar, Kimberly M  
**Sent:** Monday, August 5, 2019 3:01 PM  
**To:** Klayman, Amy S; Talamantes, Eudelia A; Hanson, Greta E; McPherson, Yaniece A; Garrett, Natalie M  
**Cc:** Papazian, Varsenik L; Pueschel, Tracy W  
**Subject:** USBP Ramp Up  
**Attachments:** CF for USBP Training and Ramp-Up Requirements and Schedules Draft 8.2.19.docx

Hi All—

Planning for the USBP detail developed pretty quickly. Thank you in advance for adapting quickly to having them on your APSO teams. If you have not already seen the attached, please take a look as it describes the minimum requirements HQ has identified for the proper onboarding of the Agents. It also describes the training that they have had prior to coming to ZMI.

ET, I understand that you are going to have some additional sessions with them to verify their access to systems, conduct a security checks overview, and reacquaint them with Global APSO. These sessions may spill over to Wednesday because of the other trainings currently underway in our office. Nevertheless, there are a few things I wanted to ask you about their preparation for heading to the detention facilities:

- Do they have interpreter PINS for all three contractors?
- Do they have access to all the systems necessary for performing APSO security checks?
- Do they have any questions about the APSO process?
- Are there samples of what a CF determination looks like: notes, forms, etc.?
- Is there COI they can review on the countries from which most of our cases come: China, Cuba, El Salvador, Guatemala, Honduras, India, Venezuela?

For SAPSOs, I also have a few questions,

- Do you have samples note taking templates available?
- Are there other countries that should be added to or removed from the list above for COI?
- Have you identified a Senior or experience AO whom the Agents can shadow and who can act as mentor?
- Is there sufficient work pending to permit them to observe interviews this week and prepare a write up of the cases they observe?
- Do you have capacity to review and provide feedback to them on their sample write ups?

Amy and I were present in a session on Friday in which offices that already have Agents working on CF cases provided their assessment of their work. If you have not already discussed it with Amy and want to have a brief discussion about what we heard, please let me know.

Regards,

---

Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
1501 Biscayne Blvd., Suite 300  
Phone: [REDACTED] (b)(6)

the employee or agent for delivering the communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this communication in error, please notify the sender immediately by telephone and destroy this transmission according to applicable DHS Policy and Instruction.

**Training and Ramp-Up Requirements for**  
**USBP Agents Conducting Credible Fear**  
**Interviews for the Asylum Division**

## Contents

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## Introduction

This document outlines a training and ramp-up program that Asylum Division field offices are required to use when USBP Agents are deployed on TDY to the field offices to conduct credible fear interviews. This in-field training and ramp-up requirement is intended to standardize the training provided to the agents across all of the field offices by providing minimum requirements. This will give both the asylum offices and the agents a baseline of training provided based on experience level. It will also help provide a foundation to aid agents in conducting legally sufficient interviews and determinations after a brief training period. Offices can, and are encouraged to, go beyond these minimal requirements.

## Agents Conducting Credible Fear/Reasonable Fear Interviews for the First Time (and if there should be a Break of Over 12-Weeks)

Credible Fear Training for USBP Agents (CF for USBP)<sup>i</sup> is a training program intended to prepare USBP agents with no prior formal asylum training to conduct credible fear screenings at offices within their sectors, under supervisory review, at Asylum Division field offices and detention locations where Asylum Officers conduct credible fear interviews. The training is comprised of:

- 1) **Distance Training:** Agents familiarize themselves with the asylum specific lesson plan guidance by reading required materials during distance training. Approximately 80 hours was allotted to complete the reading. *See CF for USBP Syllabus.*
- 2) **CF for USBP Classroom Instruction:** Agents receive 15 face-to-face training days. The face-to-face training includes lectures, practical exercises, mock interviews and observed credible fear interviews. This portion of the training focuses on preparing the agents to conduct credible fear interviews, prepare legally sufficient checklist determinations, and understand substantive and procedural requirements of credible fear adjudications. *See schedules and materials at CF for USBP.*
- 3) **Credible Fear In-Field Training Program:** Agents receive on the job training at the asylum office responsible for reviewing their cases. The minimum requirements for the In-Field Training are outlined below.

The In-Field Training Program is a crucial element in the successful transitioning of USBP agents to assist with work in the Asylum Division. The on-the-job training provided by the field will reinforce the materials that agents received during the classroom instruction portion of CF for USBP. This reinforcement will assist agents in adjusting to the office procedures and varied workloads at each asylum office.

Credible fear cases are time sensitive, as the applicants are generally detained and the workload constantly shifts due to receipts. Accordingly, this in-field training is intended to be a flexible model that provides agents with the additional practical training required to fully prepare them to complete full workloads. The required elements of the In-Field Training Program are outlined here to ensure that agents have a training experience in all offices that includes on-the-job training, guidance on local procedures, and a ramp up interviewing schedule. The required elements of the In-Field Training Program for agents performing credible fear interviews are delineated herein. This serves as the *minimum* required training a USBP agent should receive on her or his first credible fear deployment. Additional training may be given in the discretion of the Field Office.

## Required Elements of CF for USBP In-Field Training Program

### Week 1

#### *Field Office Orientation*

- Provide orientation (TOs, SAOs, Sr. AOs, or designated staff):
  - Orient USBP agents to the physical facility, operations, schedules, office procedures, points of contact in local office for substantive and procedural issues. Your office should also be sure the USBP agents understand the language vendor assignments as this may be different from a prior detail. You should also direct them to your local LSA if you have one. Agents should verify that they have interpreter PINs for all three language services and access to the ECN interpreter log. Agents should use the HQ Dial Up Instructions. They can be found on the CF for USBP ECN site.
- Q&A session (TOs, SAOs, Sr. AOs or designated staff):
  - Give USBP agents an opportunity to ask questions regarding local procedures or outstanding questions regarding Asylum policy and procedures.

#### *Template and Forms Orientation*

- Provide instruction on templates, form fillers, and other tools used locally.

#### *Security Checks Practicum*

- Verify access to all necessary security systems (TOs or designated staff):
  - Many USBP agents received systems access during Credible Fear for USBP Training. Please confirm that USBP agents have systems access to perform the security checks required for APSO. This should occur on the agents' first day of in order to allow time to address access issues that might present. In the event there are questions regarding systems access, please email the Asylum Training Coordinators inbox with a complete list of agent's names and systems access issues.
- Security checks overview (TOs or designated staff):
  - Security checks are best learned in a hands-on setting. Agents receive initial training in security checks during the practicum in face to face training. TOs or designated staff will provide formal orientation on security checks and local procedures as conducted and performed in the local asylum office.
  - For more information on the security checks training provided at training please see the schedule and materials at CF for USBP agents. The materials are located at Day 4 and in the Adjudicative Aids.

#### *APSO Case Management Practicum*

- APSO Case Management System Overview (TOs or designated staff):



- USBP agents received a brief training on Global at CF for USBP. Case entry is best learned as a hands-on activity.
- For more information on the Global Overview training provided at CF for USBP please see the schedule and materials at the CF for USBP agents page.
- If there are Global access or permissions issues, please email the asylum training coordinators inbox with the Agent's name and issue.

### ***Interview Observations***

- Observe at least one Credible Fear interview
  - TOs match Agents with interviewing/experienced AOs. USBP agents observe and take notes, but do not ask the applicant questions during the interview.
- Complete associated paperwork and determination checklist for each case:  
After observation, USBP agents complete the accompanying paperwork and decisional checklist, using their own notes taken during observation. The completed file should be submitted to the TOs, or designated POC, by COB. TOs, or designated POC, provide feedback to USBP agents the following day.

### ***Suggested but not required - Shadow a Senior AO or AO***

- Shadowing (SR. AOs or designated AOs)
  - USBP agents are assigned alone or in pairs depending on resources and number of detailees, to shadow an AO or Sr. AO on an APSO interview day. This should include observing pre-interview preparation, telephonic procedures (as applicable), and post-interview processing and other activities performed by the AO throughout the day. The purpose is to model the flow of the work day and local procedures.

## **Week 2**

### ***Observed Interviews***

- USBP agent conducts at least two Credible Fear interviews<sup>4</sup>:
  - TOs, Sr., AOs, SAOs observe at least two credible fear interviews conducted by USBP agents and provide feedback on interview techniques. The observations will ideally occur on different days. The observer may interrupt or ask questions to ensure the interview is legally sufficient and complete.

Observed interviews may begin in week 1 at the Office's discretion.

- USBP agent completes cases:
  - USBP agent completes case paperwork, security checks, and decisional checklist of the case interviewed. The completed file should be turned into the TO, or designated POC, by COB. TOs, or designated POC, should provide feedback to USBP agents the following day.

- Interview and Decision Feedback (TOs, designated POC): TOs meet with USBP agent to provide feedback on the interview and decision turned in the day prior. Feedback should be provided using parameters of the PPA Companion Guideline document and local procedures for evaluating new officers but should not contain a score for the feedback, as this feedback is being provided during a training period and will not be used for performance evaluation.

### ***Ramp-up Interviewing Period***

- Credible Fear ramp-up phase (TOs, SAOs, Sr. AOs or designated staff):
  - During this phase, USBP agents will be placed on a reduced interview schedule in order to aid their ability to accurately and efficiently complete credible fear cases and to receive feedback. This ramp up may be combined with the interview observations outlined above.
  - During the ramp-up period, offices must designate the point of contact for USBP agents in case of questions or if there is need for additional support. This will help facilitate acclimation to the office procedures as well as to the credible fear interview and decision requirements.
  - During the ramp-up period, offices must designate one or two SAOs/SAPSOs to review cases completed by USBP agents. When operationally feasible supervisors should be dedicated solely to review of USBP agents' cases and offering feedback and guidance to USBP agents.
  - Asylum offices will determine when the agent is prepared to take on additional cases building toward the ability to conduct a full caseload.

### **Additional Trainings and Recommendations**

#### ***Ongoing Training***

- Weekly Asylum Training (as scheduled in your office)
  - Invite detailed USBP agents to participate in scheduled weekly office trainings in order to help keep them abreast of legal or procedural updates to improve their understanding and adjudications.

#### ***Recommendations***

HQ strongly encourages offices to delegate a group of SAOs to review USBP cases throughout the agents' detail as opposed to employing a triage system of case review. This will help ensure that progress can be measured over time on consistent guidance provided by the supervisors.

Please assign a Senior AO **mentor** to USBP agents for the duration of their duties, as an extra POC for guidance and support. This Senior should have their interview schedule and collateral duties reduced in order to fulfill this role.

To improve efficiency and consistency, consider providing (on day 1) **sample written checklists that include relevant COI** for the most commonly seen claims in your office and notes templates.

During the ramp-up and training period, TOs should check in with the Agents on a daily basis to ensure that assignments are being completed in a timely manner and questions are being answered as they arise.

---

<sup>i</sup> Completion of CF for USBP is required for purposes of an Asylum CF detail and is not a substitute for the Asylum Division Officer Training Program (ADOTP), a requirement for employment as an Asylum Officer. (See: Job Vacancy Announcement and RAIO Directorate Officer Training HANDBOOK).

**Talamantes, Eudelia A**

---

**From:** Talamantes, Eudelia A  
**Sent:** Tuesday, August 6, 2019 7:25 AM  
**To:** VAZQUEZ, ROBERT M; BAEZ, JONATHAN  
**Cc:** Klayman, Amy S; Timothee, Fritz G; Aguilar, Kimberly M; McPherson, Yaniece A; Garrett, Natalie M  
**Subject:** RE: RAIO Research Unit June 2019 News Summary Bulletin

Also read the India article under the Asia section.

---

**From:** Talamantes, Eudelia A  
**Sent:** Tuesday, August 06, 2019 7:59 AM  
**To:** [REDACTED] (b)(7)(c)  
**Cc:** Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; Timothee, Fritz G <Fritz.G.Timothee@uscis.dhs.gov>; Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>; McPherson, Yaniece A <Yaniece.A.McPherson@uscis.dhs.gov>; Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>  
**Subject:** FW: RAIO Research Unit June 2019 News Summary Bulletin  
**Importance:** High

Good morning,

I am forwarding the June 2019 edition of the RAIO news summary bulletin.

This morning please read all the articles under the Latin American and Caribbean sections, which reports on Cuba, Guatemala, Mexico, Haiti, Honduras, Colombia, and Nicaragua, which provide helpful background or case specific information. I will provide other COI of other relevant countries later.

As a reminder under CF of persecution the past harm and future fear needs to be tied to a protected ground, while CAT claims require a government actor/public official or one who acquiesces to the torturous acts of private actors. When reading this information keep these two issues in mind and see if you read reports that may describe either one.

When we get together this afternoon, we can explore the acquiescence issue a little deeper and go over some sample write-ups and address any questions you may have. I'll be checking in on you throughout the morning and after this morning trainings we will have an afternoon session. Tentatively to start at about 1:30 or 2:00 pm.

Eudelia Talamantes (ET)  
Training Officer

---

**From:** RAIO Communications and Events <raiocommunicationsandevents@uscis.dhs.gov>  
**Sent:** Wednesday, July 03, 2019 4:41 PM  
**To:** RAIO - ALL1 <RAIO-ALL@uscis.dhs.gov>; RAIO-RU NSB Distribution <RAIO-RUNSBDistribution@uscis.dhs.gov>  
**Subject:** RAIO Research Unit June 2019 News Summary Bulletin

Good afternoon,

Please find below the RAIO Research Unit June 2019 News Summary Bulletin for your information.



U.S. Citizenship  
and Immigration  
Services

## RAIO Research Unit News Summary Bulletin:

AMERICAN  
OVERSIGHT

DHS-19-1398-A-000116

# June 2019



A COMPILATION OF ARTICLES ON HUMAN RIGHTS AND SOCIOPOLITICAL DEVELOPMENTS BY THE RAIO RESEARCH UNIT.



Not on the list? Receive the Monthly News Summary Bulletin by [subscribing](#).

\* \* \* \* \*

## ANNOUNCEMENTS:

- The RU Speaker Series will host Dr. Kevin Woods on Tuesday, August 20, 2019 from 2:00 to 3:30 PM EDT in the Apple Cherry Room at 20 Massachusetts Ave. NW. He will discuss the Iraqi military from 1979-2003. To call in, dial 1-866-811-5953 and use the passcode 42105683; note that those calling in should mute their phones while listening. An e-mail with additional details was sent out on June 25.
- The RU Speaker Series hosted Jason Stearns on Tuesday, June 25, 2019 to discuss armed groups in eastern Democratic Republic of the Congo. A Recording of the speech will be posted to [RU Speaker Series Videos](#), where it can be viewed using Internet Explorer.
- RAIO Adjudicators are reminded that they may [register](#) with the IGC in order to access its website, which includes materials posted by the COI Working Group, including presentations, articles, and other information related to COI.
- The State Department has released its annual [Report on International Religious Freedom](#) and [Trafficking in Persons Report](#). Both are useful starting points for COI research.

## ASIA

### Bangladesh

[Justice Long Overdue for Bangladesh's Disappeared](#)

Human Rights Watch – June 11, 2019

In 2018, security forces detained at least 90 people, including an activist who documented abuses in the eastern Chittagong Hill Tracts.

### Burma

[Fighting in Myanmar's Rakhine State Claims Military Casualties, Causes Civilians to Flee](#)

Radio Free Asia – June 24, 2019

Since late 2018, fighting between the Burmese military and the Arakan Army has increased. More than 90 civilians have been detained on suspicion of having ties to the group.

### China

[58 Uyghur Journalists Detained](#)

Reporters Without Borders – June 3, 2019

As many as 1.5 million persons have been detained in Xinjiang in the last two years, including 58 journalists.

### India

[Kashmir's decade-high death toll a 'warning sign'](#)

The New Humanitarian – June 11, 2019

More people were killed in Kashmir in 2018 than in any year since 2008. Some analysts expect the number of casualties to rise this year.

### Pakistan



\* \* \* \* \*

#### FEATURED RESEARCH PRODUCTS:

- [Armed Groups in Burkina Faso, June 2019](#)
- [Allegations of DRC Harming Family Members of Political Leaders or Activists](#)
- [Information on Potential Human Rights Abuses by DISIP; the Naval Intelligence Unit; and Security Workers for the Ministry of Petroleum \(1997-2014\)](#)
- [Venezuela: 2014 Protests](#)
- [Rwanda: Allegations of Terrorism against Lieutenant Joel Mutabazi](#)
- [Obtaining Eritrean Passports](#)
- [Chad: Maba Ethnic Group and Mistreatment, and Detention by Government Security Forces](#)

\* \* \* \* \*

#### HOT TOPICS:

- [Islamic State make first claim of Mozambique presence: SITE](#)  
**The East African**
- [What is Sahwa, the Awakening movement under pressure in Saudi?](#)  
**Al Jazeera**
- [Sudan Civil Unrest: Flash Update, June 6 2019](#)  
**OCHA**
- [Mali attack: '100 killed' in ethnic Dogon village](#)  
**BBC**
- [Ebola confirmed in Uganda](#)  
**New Vision**
- [Meet Myanmar's Blue Shirts](#)  
**The Diplomat**
- [China Frees Church Leader After 6 Months in Detention](#)  
**New York Times**
- [Dozens killed in heavy fighting in northwest Syria](#)  
**Al Jazeera**
- [Refugee girls in Beirut 'face sexual violence, forced marriage'](#)  
**Al Jazeera**
- [Iraq: Civilians killed in Baghdad blast at Shia mosque](#)  
**Al Jazeera**
- [Opposition win in Istanbul a blow to](#)

#### Pakistani Blogger, Social-Media Activist Killed in Islamabad Knife Attack

Radio Free Asia – June 17, 2019

Popular Pakistani blogger, Muhammad Bilal Khan, had thousands of social media followers and often wrote about religion. He also organized a campaign to bring attention to forced disappearances of those alleged to have been abducted by security or intelligence forces.

## EUROPE & CENTRAL ASIA

### Afghanistan

#### Taliban Warns Afghan Media Not To Air Government Ads Against Them

Radio Free Europe / Radio Liberty – June 24, 2019

Afghanistan remains a dangerous location for journalists. The Taliban promised to target Afghan media unless they stop broadcasting government-sponsored messaging – designating those who continue as “military targets”.

Approximately nine Taliban-related media attacks have taken place in 2019, with one journalist killed, and one injured.

### Georgia

#### Georgia Stages Protests While Its Relations With Russia Are in a Tailspin

New York Times – June 22, 2019

Protests continue in Georgia over Russian influence and the ruling Georgia Dream party's alleged acquiescence. Hundreds have been injured by rubber bullets and tear gas. After a brief war in 2008, many Georgians blame Russia for the loss of 20 percent of Georgian territory due to arms and support provided to separatists in breakaway Abkhazia and South Ossetia.

### Iran

#### Sentencing of human rights lawyer to 30 years in prison and 111 lashes 'a shocking injustice'

Amnesty International – June 3, 2019

Iranian courts have been ordering increasingly harsh sentences against human rights lawyers. Amirsalar Davoudi was given 30 years in prison and 111 lashes for his human rights work, including publicizing violations through the Telegram mobile messaging app and giving media interviews, resulting in charges including “insulting officials”, “insulting the Supreme Leader” and “spreading propaganda against the system”.

### Italy/Ukraine

#### Italy Jails Three Men For Joining Separatist Fighters In Eastern Ukraine

Radio Free Europe / Radio Liberty – July 3, 2019

Paid mercenaries fight on both sides of the conflict in the Donbass region of Eastern Ukraine. Italy convicted three men – an Italian, an Albanian, and a Moldovan – of fighting alongside separatists for 300-400 euros (\$340-450) per month. Ukraine authorities indicated that at least 30 Italians were fighting against Kyiv's forces in eastern Ukraine as of April 2018.

### Russia

#### Russia's Film Distributor Censors Gay Scenes Out of Rocketman

Turkey's Erdogan  
**Associated Press**

- Sudanese security forces use violence to disperse student protest  
**Reuters**
- Ethiopia: 37 killed in another region after coup attempt  
**Washington Post**
- Twin attacks threaten new Ethiopian government's reforms,  
**Reuters**
- Nearly 250 arrested in Ethiopia after foiled coup: state TV  
**Reuters**
- 'A historic moment.' U.N. establishes a replacement for departing Haiti peacekeepers  
**Miami Herald**
- Exclusive: Colombian armed groups recruiting desperate Venezuelans, army says  
**Reuters**
- El Salvador Flirts with 'Mano Dura' Security Policies Again  
**InSight Crime**
- For Central Americans, Fleeing to Europe May Beat Trying to Reach U.S.  
**New York Times**
- MS13 Grows Extortion Empire Through Honduras Mototaxi Fleet  
**InSight Crime**
- Spike in Mexico Lynchings is Grave Warning Sign  
**InSight Crime**
- El Salvador's MS13: 'We Trust in God and Nayib Bukele'  
**InSight Crime**

\* \* \* \* \*

**RAIO Library**

Visit the RAIO Library, a centralized historical database with a user-friendly search engine where you will find additional research resources.

\* \* \* \* \*

Human Rights Watch – June 3, 2019

The Elton John biopic, *Rocketman*, was censored in Russia – removing scenes depicting gay sex and men kissing to comply with the Russian “gay propaganda” law. The law claims to protect children from exposure to content that is favorable to LGBT people, yet the film is rated 18+.

## MIDDLE EAST & NORTH AFRICA

### Egypt

Egypt arrests activists over alleged anti-government plot

Al-Jazeera – June 25, 2019

Egyptian authorities have arrested at least eight people, including prominent activists who were part of the country's 2011 uprising, accusing them of a plot to bring down the government.

### Iraq

Displaced People Unable to Return Home Years after Battles

Human Rights Watch – June 14, 2019

An estimated 1.8 million people remain displaced by the conflict between Iraqi forces and the Islamic State (also known as ISIS) two years after the heaviest fighting ended. A new Human Rights Watch report highlights the experiences of families who are struggling to find a safe home in post-ISIS Iraq.

### Libya

In Libya's anti-Haftar bastion, a resolve to fight hardens

Reuters – June 20, 2019

Initially shocked by the audacity of Haftar's assault, armed groups in western Libya have improved coordination and revived armories from Libya's 2011 revolution against Muammar Gaddafi in order to equip their fighters. Their early disarray allowed Haftar's Libyan National Army (LNA) force, allied to a parallel administration in eastern Libya, to reach Tripoli's southern outskirts. But since then, defenders drawn from Misrata and Tripoli have managed to hold off Haftar's attack, even regaining some turf. Western diplomats expect a long war — possibly until year-end — as both sides seem confident of their prospects and enjoy backing from foreign powers who are not pushing for a ceasefire.

### Syria

Syrian attacks on civilians continue amid rebel counterattack

Al Jazeera – June 7, 2019

Heavy fighting raged in northwestern Syria on Friday after rebels launched a counterattack to repel an offensive by government forces in the war-torn region. Syria and ally Russia ramped up deadly air raids and artillery fire on the rebel-controlled northwest in late April against Hay'et Tahrir al-Sham (HTS), a former al-Qaeda affiliate whose fighters dominate the area.

### Turkey

Erdogan Faces Fallout After His Party's Loss in Istanbul Mayor's Race

New York Times – June 24, 2019



Preliminary results announced Monday by Sadi Guven, head of the High Election Council, showed that the opposition candidate, Ekrem Imamoglu, won 54 percent in the repeat vote for mayor of Istanbul; Mr. Erdogan's candidate, Binali Yildirim, received 45 percent of the vote. Mr. Imamoglu won by more than 800,000 votes, compared with a 13,000-vote victory in the first ballot. Turnout rose one percentage point, to 84 percent. Mr. Erdogan will now have his hands full in containing the fallout from the electoral defeat, the biggest of his political career, which came after what in hindsight was his disastrous decision to push for a rerun of the mayoral election after Mr. Imamoglu's initial victory.

## HORN OF AFRICA

### Eritrea

#### Eritrea's Human Rights Crisis Requires Ongoing Scrutiny

Human Rights Watch – June 24, 2019

A new report from the UN Special Rapporteur on human rights in Eritrea reviews Eritrea's human rights situation since its historic July 2018 peace deal with Ethiopia. The report painted a worrying picture of ongoing alleged abuse and repression. It further stated there is no independent scrutiny in Eritrea, continuing to deny access to the Special Rapporteur. It also forbids independent press and non-governmental organizations to operate in Eritrea, and has not made immediate attempts to end its practice of indefinite national service.

#### Eritrea's seizure of Roman Catholic Church properties criticized

BBC News – June 19, 2019

Eritrea's Roman Catholic Church has condemned the Eritrean government for seizing and shutting down all 22 of its health centers. The government has reportedly closed the health centers to retaliate against the Church for issuing a statement in April calling for reforms to stem the tide of migration to Europe. The closure of these health centers is likely to leave thousands of people, mostly mothers and their children in rural areas, without healthcare.

### Ethiopia

#### Restoring Calm in Ethiopia after High-profile Assassinations

International Crisis Group – June 24, 2019

On June 22<sup>nd</sup>, Ethiopia faced a series of high profile assassinations. In the Amhara state, gunmen killed regional leader Ambachew Mekonnen and two of his advisers. A few hours later, a bodyguard reportedly shot dead General Seare Mekonnen, chief of staff of Ethiopia's military, along with a retired officer. Prime Minister's Abiy's office has characterized the killings as a coup attempt in Amhara. In response, the federal government imposed an internet blackout across the country – still in effect – and the military launched a manhunt for the alleged mastermind, "the hardline Amhara security chief named Asaminew Tsige". On June 24, state media announced that Asaminew was killed by the military in a firefight.

See also: Analysts Unsure Why General Killed Amhara Region President, Voice of America – June 25, 2019.

#### Displaced families suffering subhuman conditions in Ethiopia: Egeland

Reuters, June 20 – 2019

According to the secretary general of the Norwegian Refugee Council, displaced families are enduring sub-human conditions in Ethiopia, without enough food and shelter. The government states that 2.3 million citizens are displaced inside the country, 1.7 million of them after fleeing conflict. The Geneva-based Internal Displacement Monitoring Centre last month gave a higher figure, saying that an estimated 3.2 million Ethiopians had fled conflict and drought by April of this year.

## **Kenya**

### 3 guilty in Kenya Garissa University attack that killed 148

The Washington Post – June 19, 2019

A Kenyan court found three people guilty of conspiracy to commit a terror attack after phone records and handwriting linked them to the 2015 Garissa University assault that killed 148 people. The Garissa University attack saw four Al-Shabaab gunmen force their way onto campus. The attack is Al-Shabaab's deadliest attack on Kenya.

### Al Shabaab kill 16 in Kenya and Somalia blasts

Reuters – June 16, 2019

Al Shabaab reportedly killed eight Kenyan police in a roadside bomb near the border between the two countries, and another eight died in a bombing carried out in Mogadishu, the Somali capital. Al Shabaab claimed responsibility for both attacks. The terrorist group also kidnapped three Kenyan police reservists from the same area, in Wajir district in northeast Kenya.

*See also:* Kenyan Police Blame Al-Shabab For Blast Near Somalia That Left Officers Dead, NPR – June 15, 2019.

## **Somalia**

### In Somalia, IOM Begins Relocating Families at Risk of Eviction

IOM – June 24, 2019

IOM started relocating Internally Displaced Persons (IDPs) who were at risk of forced eviction to the newly developed public site in Baidoa, in Somalia's southwestern Bay region. This region hosts an estimated 323,000 displaced people, many of whom live on private land without secure tenure agreements, and are in constant risk of forced evictions.

### Somalia militia executes nine civilians

Africa News – June 15, 2019

According to Somali police sources, Al-Shabaab executed nine civilians in Galkayo, in the central-western part of Somalia, in retaliation for the murder of a local security official. The members of the local militia involved in the killing of civilians are Saad Habargidir, one of the Hawiye sub-clans, who are very active in the southern part of Galkayo. Galkayo straddles the border between the self-proclaimed semi-autonomous regions of Puntland and Galmudug.

### Al-Shabaab Captures Af-Urur Town in Somalia's Puntland Region

Bloomberg – June 8, 2019

Al-Qaeda-linked militants captured a town in Somalia's semi-autonomous region of Puntland, after taking over a military base. Al-Shabaab fighters seized the area of Af-Urur after Somali soldiers moved from the base this month.

## South Sudan

### South Sudan food crisis, slow storms, and sitting on the Sudan fence: The Cheat Sheet

The New Humanitarian – June 14, 2019

According to [a new report by the government and three UN agencies](#), a record number of people will face acute food shortages in South Sudan. The report further states that the lean season is exacerbated by delayed rainfall and ongoing political instability.

## Sudan

### UN Country Team and UNAMID deplore the looting and destruction of UN agency properties in Graida, South Darfur

UN News – June 21, 2019

A group of protestors invaded the offices of the INGO World Vision International (WVI) and destroyed several properties. The protestors also ransacked the Graida, South Darfur office of World Food Program (WFP), where an unspecified amount of money was stolen, and four vehicles vandalized. The African Union – United Nations Hybrid Operation in Darfur (UNAMID) and the UN Country Team in Sudan stated that they were deeply concerned about the looting and destruction of property.

### Sudan's Bashir charged with corruption, in first appearance since April

Reuters – June 16, 2019

Sudan's ex-president Omar al-Bashir was charged with corruption-related offences, at the first court public appearance since he was overthrown and detained in April. Bashir was charged last month with incitement and involvement in the killing of protesters, and prosecutors also want him questioned over suspected money laundering and terrorism financing.

### Sudan Ousted a Brutal Dictator. His Successor Was His Enforcer.

The New York Times – June 15, 2019

Lt. Gen. Mohamed Hamden, also known as Hemeti, heads the Rapid Support Forces and previously led a militia accused of genocidal violence in Darfur. Hemeti is now the deputy leader of the Military Transition Council, which seized power from former President al-Basher on April 11.

*See also:* [Explainer: tracing the history of Sudan's Janjaweed militia](#), The Conversation – June 18, 2019.

### Sudan briefing: Civilians face increasing fragility under military rule

The New Humanitarian – June 14, 2019

The Transitional Military Council governing Sudan since the April ouster of President Omar al-Bashir has admitted "some mistakes happened" in a June 3 crackdown on sit-in protesters by paramilitary Rapid Support Forces that left more than 110 people dead.

*See also:* [Sudan hospital traumatized by bloody crackdown](#), Reuters – June 7, 2019; [Sudan's protesters accept roadmap for civilian rule](#), PBS – June 23, 2019.

## SUB-SAHARAN AFRICA

## **Burundi**

### Burundi: Rampant Abuses Against Opposition

Human Rights Watch – June 12, 2019

Security forces and ruling party youths have carried out dozens of beatings, arbitrary arrests, disappearances, and killings against real and suspected political opposition members. The abuses have increased since the registration of a new opposition party, the National Congress for Freedom (CNL), in February 2019. The CNL, formerly known as the National Liberation Forces (*Forces nationales de libération, FNL*), is led by Deputy Speaker Agathon Rwasa. The human rights abuses are taking place ahead of Burundi's 2020 presidential elections.

## **Cameroon**

### Cameroon secessionist fighting tops list of world's forgotten crises

The East African – June 10, 2019

Cameroon tops the list of the ten most forgotten crises in the world. The list is based on lack of funding and media attention and political neglect. In Cameroon, an armed conflict has so far uprooted half a million people in the English speaking Southwest and Northwest regions. The unrest has left 1,850 dead, 560,000 internally displaced, and 32,000 others as refugees in Nigeria. Brutal killings, burned-down villages, and massive displacement have been met with deafening silence. Three million people affected by the crisis need humanitarian aid.

## **Democratic Republic of the Congo (DRC)**

### Massive displacement reported in north-eastern DRC amid new violence

UNHCR-USA – June 18, 2019

The situation in the Ituri Province in northeastern DRC has deteriorated since last week, with multiple attacks involving the Hema and Lendu ethnic groups. Violence has displaced more than 300,000 people since early June 2019. Attacks between the two communities had already led to widespread displacement in late 2017 and early 2018, but the situation had calmed. Large-scale displacement has taken place in three of Ituri's five administrative territories: Djugu, Mahagi, and Irumu. People flee attacks and counter attacks, with reports of both communities forming self-defense groups and being involved in revenge killings. DRC has an estimated 4.5 million internally displaced people, including new displacements in North Kivu and South Kivu provinces.

## **Mali**

### Mali attack: At least 95 killed in ethnic Dogon village

Aljazeera – June 11, 2019

Malian authorities have accused ethnic Fulani assailants of killing at least 95 people in an attack on an ethnic Dogon village in central Mali. Violence between the Dogon and Fulani has compounded an already dire security situation in Mali's semi-arid and desert regions. The attack occurred less than three months after nearly 160 members of the Fulani ethnic group were killed by a group identified as Dogon. The Fulani are primarily cattle breeders and traders, while the Dogon are traditionally sedentary farmers.

## **Tanzania**

### Averting Violence in Zanzibar's Knife-edge Election

International Crisis Group (ICG) – June 11, 2019

Next year's elections in Zanzibar, the semi-autonomous Tanzanian archipelago, may entail violence between the ruling party, *Chama Cha Mapinduzi* (Party of the Revolution, CCM), and the main opposition, ACT-Wazalendo (Alliance for Change and Transparency). ACT accuses CCM of changing the rules to win the upcoming elections and to have cheated its way to victory in every poll since 1995. The latest election in 2015 ended in a grim deadlock and, with President John Magufuli unilaterally pushing through reforms that tilt the playing field further in the ruling party's favor, the 2020 vote could be Zanzibar's most dangerous yet.

## **LATIN AMERICA & THE CARIBBEAN**

### **Cuba**

As sanctions bite in Cuba, the U.S. — once a driver of hope — is now a source of pain

The Washington Post – June 23, 2019

U.S. sanctions, the near collapse of Venezuela, and the Cuban government's failure to rapidly enact reforms have damaged Cuba's economy and contributed to the country's "worst economic setback in years." Last month, the Cuban government reintroduced broad rationing, which has led to the longest food lines "since Venezuelan oil and aid began flowing to the island during the early 2000s."

Cuba is driving dissidents off island with threats of violence and jail, report finds

Reuters – June 19, 2019

According to a new report from Cuban Prisoners Defenders, an NGO with links to Cuba's largest dissident group, Cuba's state security is reportedly "pressuring dissidents to go into exile in its attempt to weaken opposition on the communist-run island."

### **Guatemala**

Migration to US is a family 'duty' for many Guatemalans

PRI – June 18, 2019

For many families in certain parts of Guatemala, migration has become a family duty. Around 25% of Guatemalan families receive remittances—mainly from the United States.

See also: 'The migration problem is a coffee problem', The Washington Post – June 11, 2019

Guatemala Impunity Report Shows Limits of Anti-Graft Body

InSight Crime – June 18, 2019

After averaging 94% over the past decade, the impunity rate in Guatemala increased to 97.6% in 2018.

See also: Guatemala's Justice System: Evaluating Capacity Building and Judicial Independence, Washington Office on Latin America (WOLA) & the Myrna Mack Foundation – June 2019

### **Haiti**

Haiti: Crime, including protection available against crime and the effectiveness of that protection, particularly in Port-au-Prince, Cap-Haïtien, Jérémie, Les Cayes and Gonaïves (2016-June 2019)

Immigration and Refugee Board of Canada (IRB) – June 17, 2019

A new query response from the IRB discusses crime in Haiti—including in different regions of the country—as well as the availability and effectiveness of protection.

Haiti: Major criminal groups, including their areas of operation, their structure and their activities; state response (2016-May 2019)

Immigration and Refugee Board of Canada (IRB) – June 6, 2019

A new query response from the IRB discusses criminal groups in Haiti, including their geographic presence and activities, and the state's response.

## **Honduras**

Honduras deploys security forces as doctors and teachers demand president's resignation

The Guardian – June 5, 2019

The Honduran government deployed security forces to suppress a wave of nationwide protests triggered by privatization reforms. Led by teachers and doctors, demonstrators demanded the resignation of the country's president.

## **Mexico**

Mexico Police Collude With Criminals to Kidnap, Extort Migrant

InSight Crime – June 20, 2019

A Honduran woman returned from the United States to Mexico under the "Remain in Mexico" program was reportedly "kidnapped and sexually assaulted after federal police agents in the Mexican border town of Ciudad Juárez abducted her and handed her over to a criminal group."

Mexico Is Overwhelmed By Asylum Claims As It Ramps Up Immigration Enforcement

NPR – June 14, 2019

With a 196% increase in asylum applications this year, Mexico's refugee commission has been described as "overwhelmed." The agency only has 48 staff members, yet expects to receive 60,000 asylum claims in 2019.

*See also:* Mexico's National Guard, a 'Work in Progress,' Deployed to Curb Migration, The New York Times – June 14, 2019; At Mexico's southern border, migrants feel the pinch of a crackdown spurred by U.S., Los Angeles Times – June 13, 2019

## **Nicaragua**

Nicaragua says released all considered political prisoners

Associated Press – June 18, 2019

The Nicaraguan government claimed that it released all prisoners who were detained in relation to the 2018 anti-government protests. However, the opposition alleged that over 80 individuals whom it considered political prisoners remained in custody.

## **Venezuela**

Venezuela migrant crisis could match Syria levels by 2020, OAS official says

Miami Herald – June 21, 2019

According to an Organization of American States official, over 5 million Venezuelans may be living abroad by the end of 2019, and another million could flee the country in 2020. Over 4 million Venezuelans had left the country by mid-2019.

Pro-Government Guerrillas Mix Political, Criminal Interests in Venezuela

InSight Crime – June 17, 2019

A pro-government guerrilla group—the Patriotic Forces for National Liberation (*Fuerzas Patrióticas de Liberación Nacional* — FPLN)—has reportedly begun training civilians in armed conflict in the Venezuelan state of Apure.

**Klayman, Amy S**

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**From:** Klayman, Amy S  
**Sent:** Tuesday, August 6, 2019 8:55 AM  
**To:** Aguilar, Kimberly M  
**Cc:** Papazian, Varsenik L; Pueschel, Tracy W; Timothee, Fritz G  
**Subject:** RE: USBP Ramp Up

Hi, Kim,

I believe that you are correct, and that the agents will not have any interaction with our RF cases. The plan in place is to transport CF cases from BTC to Krome, and I have already discussed it with the SAPSOs. I would not recommend keeping both agents at BTC for several reasons. I think it would be better to separate them; with one at each facility, each could have a dedicated SAPSO and an experienced APSO to mentor him; since we have space issues at both facilities, it's not as heavy a lift if they were separated.

Amy

**From:** Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>  
**Sent:** Tuesday, August 6, 2019 9:32 AM  
**To:** Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>  
**Cc:** Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>; Timothee, Fritz G <Fritz.G.Timothee@uscis.dhs.gov>  
**Subject:** RE: USBP Ramp Up

Hi Amy—

The amount of emphasis that HQ placed on RF cases with regards to the Agents makes me think they should not have any dealings with them, including observing RF processing. It seems as if they don't want anything to interfere with their ability to produce quality credible fear determinations. As such, do we need to consider having CF cases transported to Krome or having both agents report to BTC?

---

Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
Phone:  (b)(6)

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**From:** Hanson, Greta E <greta.e.hanson@uscis.dhs.gov>  
**Sent:** Tuesday, August 06, 2019 7:39 AM  
**To:** Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>; Talamantes, Eudelia A <Eudelia.A.Talamantes@uscis.dhs.gov>; Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>; Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; McPherson, Yaniece A <Yaniece.A.McPherson@uscis.dhs.gov>  
**Cc:** Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>  
**Subject:** RE: USBP Ramp Up



Good morning,

I am speaking on behalf of Yaniece who returns to Krome on Thursday, so she may have a better idea of how to organize the agent's ramp up once she is back and of what would work for her team.

The team at Krome is aware the CBP officer may be starting on Wednesday and is aware in general that he will be interviewing CF. Right now the AOs at Krome would have to share a computer (outside of the interview rooms) as there are not enough places for the current AOs plus one more to work concurrently. If they conduct staggered interviews it should not be a problem.

In the meantime I would suggest the following:

- I would have Isabella Poschl walk the agent through the process from interview to write-up. I think it would be helpful to observe at least one other officer. I would be interested in seeing the templates that were given to the CBP officers to learn with. There is also a good one that AO Poschl has given me that I will take a look at later today.
- Krome has been interviewing mostly RFs and as of this morning has only RFs scheduled for the rest of the week. I will check in with Donn a before leaving today to see if there were any other referrals.
- HQ has provided a set of checklist samples that are what we normally provide new interviewing officers – we will be sure to give these to him as well as samples of all of the decision docs and what they look like when they are completed correctly.

Thanks,

Greta

**From:** Garrett, Natalie M <[natalie.m.garrett@uscis.dhs.gov](mailto:natalie.m.garrett@uscis.dhs.gov)>

**Sent:** Monday, August 05, 2019 5:30 PM

**To:** Talamantes, Eudelia A <[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)>; Aguilar, Kimberly M <[Kimberly.M.Aguilar@uscis.dhs.gov](mailto:Kimberly.M.Aguilar@uscis.dhs.gov)>; Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>; Hanson, Greta E <[greta.e.hanson@uscis.dhs.gov](mailto:greta.e.hanson@uscis.dhs.gov)>; McPherson, Yaniece A <[Yaniece.A.McPherson@uscis.dhs.gov](mailto:Yaniece.A.McPherson@uscis.dhs.gov)>

**Cc:** Papazian, Varsenik L <[Varsenik.L.Papazian@uscis.dhs.gov](mailto:Varsenik.L.Papazian@uscis.dhs.gov)>; Pueschel, Tracy W <[Tracy.L.Pueschel@uscis.dhs.gov](mailto:Tracy.L.Pueschel@uscis.dhs.gov)>

**Subject:** RE: USBP Ramp Up

Hello, all.

Yes, we are ready to accommodate the officers at the detention facilities as early as Wednesday.

- Yes, we have sample note-taking templates, but the officers are welcome to use any that they used during their training period.
- In regard to COI, Haiti would be a good country to add, as it is one of our top five for credible fear.
- While the APSOs at BTC are not highly experienced in regard to APSO work, I think that Lazarita Chumpitazi would serve as a good mentor for the officer assigned to BTC. She is aware. (I am unsure of who has been selected at Krome.)
- Lately, we have interviewed virtually every day at BTC. However, we have no new referrals in the pipeline at this time, such that we are not guaranteed interviews on Wednesday or even later in the week. I trust that we will receive new referrals from the local airports in the coming days, such that there should be additional interviews. Krome has RF interviews in the pipeline.
- Yes, I will be available to review work and provide feedback. I believe that Yaniece plans to do the same at Krome.

Please let me know if you have any follow up questions.

Have a good evening,

Natalie

**From:** Talamantes, Eudelia A <[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)>

**Sent:** Monday, August 5, 2019 5:03 PM

**To:** Aguilar, Kimberly M <[Kimberly.M.Aguilar@uscis.dhs.gov](mailto:Kimberly.M.Aguilar@uscis.dhs.gov)>; Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>; Hanson, Greta E <[greta.e.hanson@uscis.dhs.gov](mailto:greta.e.hanson@uscis.dhs.gov)>; McPherson, Yaniece A <[Yaniece.A.McPherson@uscis.dhs.gov](mailto:Yaniece.A.McPherson@uscis.dhs.gov)>; Garrett, Natalie M <[natalie.m.garrett@uscis.dhs.gov](mailto:natalie.m.garrett@uscis.dhs.gov)>

**Cc:** Papazian, Varsenik L <[Varsenik.L.Papazian@uscis.dhs.gov](mailto:Varsenik.L.Papazian@uscis.dhs.gov)>; Pueschel, Tracy W <[Tracy.L.Pueschel@uscis.dhs.gov](mailto:Tracy.L.Pueschel@uscis.dhs.gov)>

**Subject:** RE: USBP Ramp Up

Hi – all,

After taking care of logistics for tomorrow's assessment generator training and speaking with HQ staff about the NACARA on-line I-881 application, I just had a chance to think about the training needs IDED below for our two CBP officers.

I went looking for them a few minutes ago, but they may have left already, as the Black bear is dark.

After verifying access to all systems necessary to perform APSO, if they are lacking some, will have them work on getting access. Tomorrow afternoon, I would go over the BISC with them and then pull some of the non-detained cases and have them run checks.

The morning will be tied up with training early on, but I will try to check in on them periodically, and sometime in the morning, after the dust has settled, I will forward them RAIO research COI on the key countries.

**Who is the POC on the PINs for the three language contractors, SCISA Longo or one of the MPAs?**

To reiterate, I will not be able to work with them on security checks until tomorrow afternoon, after assessment generator training is over.

At that point, I will also provide sample of checklist write-ups that we provided to AOs during the last training a week ago and answer whatever questions they have.

Let me know if you have any questions.

Have a good evening,

ET

**From:** Aguilar, Kimberly M <[Kimberly.M.Aguilar@uscis.dhs.gov](mailto:Kimberly.M.Aguilar@uscis.dhs.gov)>

**Sent:** Monday, August 05, 2019 4:01 PM

**To:** Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>; Talamantes, Eudelia A <[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)>; Hanson, Greta E <[greta.e.hanson@uscis.dhs.gov](mailto:greta.e.hanson@uscis.dhs.gov)>; McPherson, Yaniece A

<Yaniece.A.McPherson@uscis.dhs.gov>; Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>

Cc: Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>

Subject: USBP Ramp Up

Hi All—

Planning for the USBP detail developed pretty quickly. Thank you in advance for adapting quickly to having them on your APSO teams. If you have not already seen the attached, please take a look as it describes the minimum requirements HQ has identified for the proper onboarding of the Agents. It also describes the training that they have had prior to coming to ZMI.

ET, I understand that you are going to have some additional sessions with them to verify their access to systems, conduct a security checks overview, and reacquaint them with Global APSO. These sessions may spill over to Wednesday because of the other trainings currently underway in our office. Nevertheless, there are a few things I wanted to ask you about their preparation for heading to the detention facilities:

- Do they have interpreter PINS for all three contractors?
- Do they have access to all the systems necessary for performing APSO security checks?
- Do they have any questions about the APSO process?
- Are there samples of what a CF determination looks like: notes, forms, etc.?
- Is there COI they can review on the countries from which most of our cases come: China, Cuba, El Salvador, Guatemala, Honduras, India, Venezuela?

For SAPSOs, I also have a few questions,

- Do you have samples note taking templates available?
- Are there other countries that should be added to or removed from the list above for COI?
- Have you identified a Senior or experience AO whom the Agents can shadow and who can act as mentor?
- Is there sufficient work pending to permit them to observe interviews this week and prepare a write up of the cases they observe?
- Do you have capacity to review and provide feedback to them on their sample write ups?

Amy and I were present in a session on Friday in which offices that already have Agents working on CF cases provided their assessment of their work. If you have not already discussed it with Amy and want to have a brief discussion about what we heard, please let me know.

Regards,

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Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
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**Klayman, Amy S**

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**From:** Klayman, Amy S  
**Sent:** Tuesday, August 6, 2019 9:00 AM  
**To:** Garrett, Natalie M; Hanson, Greta E; McPherson, Yaniece A  
**Subject:** FW: USBP Agents (CF)  
**Attachments:** USBP In-Field ZHN Training PDF.pdf  
**Importance:** High

This might be helpful; it's ZHN's detailed training schedule for their BP Agents. They have 15, so the schedule needed to be more defined, of course, but it might be useful as a template. As you can see, each Agent has been assigned an SAO and a Senior as a mentor.

**From:** Yasrobi, Sharon A <[sharon.a.yasrobi@uscis.dhs.gov](mailto:sharon.a.yasrobi@uscis.dhs.gov)>  
**Sent:** Tuesday, August 6, 2019 9:41 AM  
**To:** Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>  
**Subject:** FW: USBP Agents (CF)  
**Importance:** High

FYI

**From:** Mireles, Charity J <[charity.j.mireles@uscis.dhs.gov](mailto:charity.j.mireles@uscis.dhs.gov)>  
**Sent:** Friday, August 02, 2019 3:02 PM  
**To:** Yasrobi, Sharon A <[sharon.a.yasrobi@uscis.dhs.gov](mailto:sharon.a.yasrobi@uscis.dhs.gov)>  
**Subject:** FW: USBP Agents (CF)  
**Importance:** High

FYA

**From:** Mireles, Charity J <[charity.j.mireles@uscis.dhs.gov](mailto:charity.j.mireles@uscis.dhs.gov)>  
**Sent:** Friday, August 02, 2019 1:59 PM  
**To:** #ZHN-SAO Only <[#ZHN-SAOOnly@uscis.dhs.gov](mailto:#ZHN-SAOOnly@uscis.dhs.gov)>; #ZHN-SENIORS <[#ZHN-SENIORS@uscis.dhs.gov](mailto:#ZHN-SENIORS@uscis.dhs.gov)>; TrainingOfficers.ZHN <[trainingofficers.zhn@uscis.dhs.gov](mailto:trainingofficers.zhn@uscis.dhs.gov)>; Basseas, Marina M <[marina.m.basseas@uscis.dhs.gov](mailto:marina.m.basseas@uscis.dhs.gov)>  
**Cc:** Daum, Robert L <[Robert.L.Daum@uscis.dhs.gov](mailto:Robert.L.Daum@uscis.dhs.gov)>; Gadson, Irvin C <[Irvin.C.Gadson@uscis.dhs.gov](mailto:Irvin.C.Gadson@uscis.dhs.gov)>; Hemming, Bryan D <[Bryan.D.Hemming@uscis.dhs.gov](mailto:Bryan.D.Hemming@uscis.dhs.gov)>; Douglas, Audrey M <[Audrey.M.Douglas@uscis.dhs.gov](mailto:Audrey.M.Douglas@uscis.dhs.gov)>; Fazal, Lubna A <[Lubna.A.Fazal@uscis.dhs.gov](mailto:Lubna.A.Fazal@uscis.dhs.gov)>; Berger, Jack S III <[Jack.S.Berger@uscis.dhs.gov](mailto:Jack.S.Berger@uscis.dhs.gov)>  
**Subject:** RE: USBP Agents (CF)  
**Importance:** High

Good afternoon all,

We have been working on finalizing the schedule for the BP agents joining our office for the next two weeks, beginning Monday, August 05, 2019. Please find the detailed USBP In-Field ZHN Training Schedule attached and the revised SAO/Backup/Senior assignments included below. Please note that changes were made in order to accommodate those on leave, TDY and/or off-site. The changes made to the original assignments are listed in red, while additional changes made in week 2 are listed in blue. The agents will be working from 7AM-5PM. In order to accommodate this schedule, OT will be available for staff who are not on 10s. Thank you to everyone who was willing

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### Week 1

| USBP | SAO     | Backup  | Senior   |
|------|---------|---------|----------|
|      | N/A     | N/A     | N/A      |
|      | Rashida | Paul    | Rafael   |
|      | Paul    | Patrick | Lynne    |
|      | Kat     | Paul    | Rafael   |
|      | Rashida | Kat     | Jennifer |
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|      | Charity | Dusty   | Lynne    |
|      | Dusty   | Charity | Rafael   |
|      | Chris   | Dusty   | Lynne    |
|      | Charity | Chris   | Rafael   |
|      | Patrick | Charity | Jennifer |
|      | Chris   | Patrick | Jennifer |
|      | Kat     | Chris   | Rafael   |
|      | Paul    | Kat     | Jennifer |

### Week 2 (b)(7)(c)

| USBP | SAO     | Backup  | Senior   |
|------|---------|---------|----------|
|      | Danny   | Rashida | Jennifer |
|      | Rashida | Paul    | Rafael   |
|      | Paul    | Patrick | Jennifer |
|      | Kat     | Paul    | Rafael   |
|      | Rashida | Kat     | Jennifer |
|      | Patrick | Rashida | Jennifer |
|      | Danny   | Dusty   | Rafael   |
|      | Dusty   | Danny   | Rafael   |
|      | Chris   | Dusty   | Rafael   |
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|      | Paul    | Kat     | Jennifer |

If anyone has questions or comments, please do not hesitate to reach out.

Thank you,

Charity

**From:** Mireles, Charity J

**Sent:** Tuesday, July 30, 2019 8:59 AM

**To:** #ZHN-SAO Only <[#ZHN-SAOOnly@uscis.dhs.gov](mailto:#ZHN-SAOOnly@uscis.dhs.gov)>; #ZHN-SENIORS <[#ZHN-SENIORS@uscis.dhs.gov](mailto:#ZHN-SENIORS@uscis.dhs.gov)>;

TrainingOfficers.ZHN <[trainingofficers.zhn@uscis.dhs.gov](mailto:trainingofficers.zhn@uscis.dhs.gov)>

**Cc:** Hemming, Bryan D <[Bryan.D.Hemming@uscis.dhs.gov](mailto:Bryan.D.Hemming@uscis.dhs.gov)>

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Bryan

# USBP In-Field ZHN Training Program

**Day One: Monday, 5 August 2019**

**Liaisons:**      **Supervisory Asylum Officer (SAO) Charity Mireles**  
                      **Training Officer (TO) Melodee Baines**  
                      **Training Officer (TO) Travis Olsen**

| Time                                   | Activity                                                                                                                                                                                                                                                                                                                                | Lead                                                    |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|----------------|---------|---------|-----------|-----|-------------|----------------|-----------|----------------|-----|-------------|-----------|-------------|----------------|-----|--|
| 7:00am – 7:30am<br>Training Room       | Introductions and Schedule Overview                                                                                                                                                                                                                                                                                                     | SAO Charity Mireles                                     |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 7:30am – 8:30am<br>Office/Kim’s office | Office Tour/PIV Card Programming/Computer Setup                                                                                                                                                                                                                                                                                         | TO Melodee Baines; TO Travis Olsen; SAO Charity Mireles |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
|                                        | <table><tr><td></td><td>Group A</td><td>Group B</td><td>Group C</td></tr><tr><td>7:30-7:50</td><td>PIV</td><td>Office Tour</td><td>Computer Setup</td></tr><tr><td>7:50-8:10</td><td>Computer Setup</td><td>PIV</td><td>Office Tour</td></tr><tr><td>8:10-8:30</td><td>Office Tour</td><td>Computer Setup</td><td>PIV</td></tr></table> |                                                         | Group A        | Group B | Group C | 7:30-7:50 | PIV | Office Tour | Computer Setup | 7:50-8:10 | Computer Setup | PIV | Office Tour | 8:10-8:30 | Office Tour | Computer Setup | PIV |  |
|                                        | Group A                                                                                                                                                                                                                                                                                                                                 | Group B                                                 | Group C        |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 7:30-7:50                              | PIV                                                                                                                                                                                                                                                                                                                                     | Office Tour                                             | Computer Setup |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 7:50-8:10                              | Computer Setup                                                                                                                                                                                                                                                                                                                          | PIV                                                     | Office Tour    |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 8:10-8:30                              | Office Tour                                                                                                                                                                                                                                                                                                                             | Computer Setup                                          | PIV            |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 8:30am – 9:00am<br>Training Room       | Copy ZHN database and forms to computer<br>Management Meet-and-Greet<br>Meet Director Robert Daum, Deputy Director Irvin Gadson, and your assigned supervisor during your task force                                                                                                                                                    | Management                                              |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 9:00am – 9:15am                        | Morning Break                                                                                                                                                                                                                                                                                                                           |                                                         |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 9:15am – 10:00am<br>Training Room      | Confirm Systems Access<br>EARM, Global, CMPS/IVT, TECS, interpreter PINS, Share drive <u>\\zhn-rs-c1-01\share\$</u>                                                                                                                                                                                                                     | Melodee Baines                                          |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 10:00am – 11:30am<br>Training Room     | Electronic Guided Tour- Credible Fear Training for US Border Patrol ECN<br><u>BP HQ interview guide</u> , dissolutions, reschedules, 48-hour waiver, and rare language NTA, NACARA for Salvadorans/Guatemalans, List of Detention and Court Addresses                                                                                   | Melodee Baines                                          |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 11:30am – 12:30am<br>Training Room     | Form filler database<br>Practice with real cases                                                                                                                                                                                                                                                                                        | Travis Olsen                                            |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 12:30pm – 1:30pm                       | Lunch                                                                                                                                                                                                                                                                                                                                   |                                                         |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 1:30pm – 2:15pm<br>Training Room       | CF Checklist Part 1<br>Demonstration and review of CF Checklists                                                                                                                                                                                                                                                                        | Melodee Baines and Charity Mireles                      |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 2:15pm – 2:30pm                        | Afternoon Break (flexible)                                                                                                                                                                                                                                                                                                              |                                                         |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 2:30pm – 3:45pm<br>Training Room       | CF Checklist Part 2 / Security Checks refresher<br>Demonstration and review of Security Checks                                                                                                                                                                                                                                          | Melodee Baines and Charity Mireles                      |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 3:45pm – 5:00pm<br>Training Room       | Signing forms in Adobe                                                                                                                                                                                                                                                                                                                  | Melodee Baines                                          |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |



## USBP In-Field ZHN Training Program

### Day Two: Tuesday, 6 August 2019

| Time                             | Activity                                                                                                                                                                                                                | Lead                               |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| 7:00am – 9:00am                  | <b>CF Interview Observations – AO Shadowing Assignment*</b><br>Refer to interview observation schedule<br>When possible, ask to review case file, security checklist, and observe AO write-ups, close-out of case, etc. | Assigned AO                        |
| 9:00am – 9:15am                  | <b>Morning Break (Flexible work around interview)</b>                                                                                                                                                                   |                                    |
| 9:15am – 11:30am                 | <b>CF Interview Observations (Continued)</b>                                                                                                                                                                            | Assigned AO                        |
| 11:30am – 12:30pm                | <b>Lunch</b>                                                                                                                                                                                                            |                                    |
| 12:30pm – 2:00pm                 | <b>CF Interview Observations (Continued) &amp; Afternoon Break (Flexible work around interview)</b>                                                                                                                     | Assigned AO                        |
| 2:00pm – 5:00pm<br>Training Room | <b>Prepare first CF case</b>                                                                                                                                                                                            | Melodee Baines and<br>Travis Olsen |

### Day Three: Wednesday, 7 August 2019

| Time                              | Activity                                                          | Lead          |
|-----------------------------------|-------------------------------------------------------------------|---------------|
| 7:00am – 9:00am                   | <b>CF Interview (1 case)</b>                                      |               |
| Your Workspace                    | <b>SAO/Senior AO/Training Officer will observe your interview</b> |               |
| 9:00am – 9:15am                   | <b>Morning Break (Flexible work around observation)</b>           |               |
| 9:15am – 10:15am                  | <b>Debrief with SAO/Senior AO/Training Officer</b>                |               |
| Your Workspace                    |                                                                   |               |
| 10:15am – 11:30am                 | <b>Complete CF case</b>                                           |               |
| Your Workspace                    |                                                                   |               |
| 11:30am – 12:30pm                 | <b>Lunch</b>                                                      |               |
| 12:30pm – 3:00pm<br>SAO's Office  | <b>Regularly Scheduled ZHN Weekly Team Meetings</b>               | SAO           |
| 1:00pm – 3:30pm<br>Training Room  | <b>Regularly Scheduled Weekly ZHN Training</b>                    |               |
| 3:30pm – 5:00pm<br>Your Workspace | <b>Prepare Thursday cases</b>                                     | Self-directed |

## USBP In-Field ZHN Training Program

### Day Four: Thursday, 8 August 2019

| Time              | Activity                                                             | Lead          |
|-------------------|----------------------------------------------------------------------|---------------|
| 7:00am – 9:00am   | CF Interviews (2 cases)                                              |               |
| 9:00am – 9:15am   | Morning Break (Flexible work around interview)                       |               |
| 9:15am – 11:30am  | CF Interviews (continued)                                            |               |
| 11:30am – 12:30pm | Lunch                                                                |               |
| 12:30pm – 3:30pm  | Complete CF cases & Afternoon Break (Flexible work around interview) |               |
| 3:30pm – 5:00pm   | Prepare Friday cases                                                 | Self-directed |

### Day Five: Friday, 9 August 2019

| Time              | Activity                                                             | Lead          |
|-------------------|----------------------------------------------------------------------|---------------|
| 7:00am – 9:00am   | CF Interviews (3 cases)                                              |               |
| 9:00am – 9:15am   | Morning Break (Flexible work around interview)                       |               |
| 9:15am – 11:30am  | CF Interviews (continued)                                            |               |
| 11:30am – 12:30pm | Lunch                                                                |               |
| 12:30pm – 3:30pm  | Complete CF cases & Afternoon Break (Flexible work around interview) |               |
| 3:30pm – 5:00pm   | Prepare Monday cases                                                 | Self-directed |

### Week 2: Monday-Friday, 15-19 August 2019

|                     |                                                                                                   |
|---------------------|---------------------------------------------------------------------------------------------------|
| Monday 12 August    | 4 CF cases<br>*SAO/Senior AO/Training Officer will periodically observe your interviews this week |
| Tuesday 13 August   | 5 CF cases                                                                                        |
| Wednesday 14 August | 2 CF cases / Regularly Scheduled Weekly ZHN Training                                              |
| Thursday 15 August  | 5 CF cases                                                                                        |
| Friday 16 August    | 3 CF cases and cleanup                                                                            |

**Klayman, Amy S**

---

**From:** Klayman, Amy S  
**Sent:** Tuesday, August 6, 2019 9:00 AM  
**To:** Garrett, Natalie M; Hanson, Greta E; McPherson, Yaniece A  
**Subject:** FW: USBP Agents (CF)  
**Attachments:** USBP In-Field ZHN Training PDF.pdf  
**Importance:** High

This might be helpful; it's ZHN's detailed training schedule for their BP Agents. They have 15, so the schedule needed to be more defined, of course, but it might be useful as a template. As you can see, each Agent has been assigned an SAO and a Senior as a mentor.

**From:** Yasrobi, Sharon A <[sharon.a.yasrobi@uscis.dhs.gov](mailto:sharon.a.yasrobi@uscis.dhs.gov)>  
**Sent:** Tuesday, August 6, 2019 9:41 AM  
**To:** Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>  
**Subject:** FW: USBP Agents (CF)  
**Importance:** High

FYI

**From:** Mireles, Charity J <[charity.j.mireles@uscis.dhs.gov](mailto:charity.j.mireles@uscis.dhs.gov)>  
**Sent:** Friday, August 02, 2019 3:02 PM  
**To:** Yasrobi, Sharon A <[sharon.a.yasrobi@uscis.dhs.gov](mailto:sharon.a.yasrobi@uscis.dhs.gov)>  
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**Importance:** High

FYA

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**Cc:** Daum, Robert L <[Robert.L.Daum@uscis.dhs.gov](mailto:Robert.L.Daum@uscis.dhs.gov)>; Gadson, Irvin C <[Irvin.C.Gadson@uscis.dhs.gov](mailto:Irvin.C.Gadson@uscis.dhs.gov)>; Hemming, Bryan D <[Bryan.D.Hemming@uscis.dhs.gov](mailto:Bryan.D.Hemming@uscis.dhs.gov)>; Douglas, Audrey M <[Audrey.M.Douglas@uscis.dhs.gov](mailto:Audrey.M.Douglas@uscis.dhs.gov)>; Fazal, Lubna A <[Lubna.A.Fazal@uscis.dhs.gov](mailto:Lubna.A.Fazal@uscis.dhs.gov)>; Berger, Jack S III <[Jack.S.Berger@uscis.dhs.gov](mailto:Jack.S.Berger@uscis.dhs.gov)>  
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#### Week 2

(b)(7)(c)

| USBP | SAO     | Backup  | Senior   |
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                      **Training Officer (TO) Travis Olsen**

| Time                                   | Activity                                                                                                                                                                                                                                                                                                                                | Lead                                                    |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|----------------|---------|---------|-----------|-----|-------------|----------------|-----------|----------------|-----|-------------|-----------|-------------|----------------|-----|--|
| 7:00am – 7:30am<br>Training Room       | Introductions and Schedule Overview                                                                                                                                                                                                                                                                                                     | SAO Charity Mireles                                     |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 7:30am – 8:30am<br>Office/Kim’s office | Office Tour/PIV Card Programming/Computer Setup                                                                                                                                                                                                                                                                                         | TO Melodee Baines; TO Travis Olsen; SAO Charity Mireles |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
|                                        | <table><tr><td></td><td>Group A</td><td>Group B</td><td>Group C</td></tr><tr><td>7:30-7:50</td><td>PIV</td><td>Office Tour</td><td>Computer Setup</td></tr><tr><td>7:50-8:10</td><td>Computer Setup</td><td>PIV</td><td>Office Tour</td></tr><tr><td>8:10-8:30</td><td>Office Tour</td><td>Computer Setup</td><td>PIV</td></tr></table> |                                                         | Group A        | Group B | Group C | 7:30-7:50 | PIV | Office Tour | Computer Setup | 7:50-8:10 | Computer Setup | PIV | Office Tour | 8:10-8:30 | Office Tour | Computer Setup | PIV |  |
|                                        | Group A                                                                                                                                                                                                                                                                                                                                 | Group B                                                 | Group C        |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 7:30-7:50                              | PIV                                                                                                                                                                                                                                                                                                                                     | Office Tour                                             | Computer Setup |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 7:50-8:10                              | Computer Setup                                                                                                                                                                                                                                                                                                                          | PIV                                                     | Office Tour    |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 8:10-8:30                              | Office Tour                                                                                                                                                                                                                                                                                                                             | Computer Setup                                          | PIV            |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 8:30am – 9:00am<br>Training Room       | Copy ZHN database and forms to computer<br>Management Meet-and-Greet<br>Meet Director Robert Daum, Deputy Director Irvin Gadson, and your assigned supervisor during your task force                                                                                                                                                    | Management                                              |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 9:00am – 9:15am                        | Morning Break                                                                                                                                                                                                                                                                                                                           |                                                         |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 9:15am – 10:00am<br>Training Room      | Confirm Systems Access<br>EARM, Global, CMPS/IVT, TECS, interpreter PINS, Share drive \\zhn-rs-c1-01\share\$                                                                                                                                                                                                                            | Melodee Baines                                          |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 10:00am – 11:30am<br>Training Room     | Electronic Guided Tour- Credible Fear Training for US Border Patrol ECN<br>BP HQ interview guide, dissolutions, reschedules, 48-hour waiver, and rare language NTA, NACARA for Salvadorans/Guatemalans, List of Detention and Court Addresses                                                                                           | Melodee Baines                                          |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 11:30am – 12:30am<br>Training Room     | Form filler database<br>Practice with real cases                                                                                                                                                                                                                                                                                        | Travis Olsen                                            |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 12:30pm – 1:30pm                       | Lunch                                                                                                                                                                                                                                                                                                                                   |                                                         |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 1:30pm – 2:15pm<br>Training Room       | CF Checklist Part 1<br>Demonstration and review of CF Checklists                                                                                                                                                                                                                                                                        | Melodee Baines and Charity Mireles                      |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 2:15pm – 2:30pm                        | Afternoon Break (flexible)                                                                                                                                                                                                                                                                                                              |                                                         |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 2:30pm – 3:45pm<br>Training Room       | CF Checklist Part 2 / Security Checks refresher<br>Demonstration and review of Security Checks                                                                                                                                                                                                                                          | Melodee Baines and Charity Mireles                      |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |
| 3:45pm – 5:00pm<br>Training Room       | Signing forms in Adobe                                                                                                                                                                                                                                                                                                                  | Melodee Baines                                          |                |         |         |           |     |             |                |           |                |     |             |           |             |                |     |  |

## USBP In-Field ZHN Training Program

### Day Two: Tuesday, 6 August 2019

| Time                             | Activity                                                                                                                                                                                                                | Lead                               |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| 7:00am – 9:00am                  | <b>CF Interview Observations – AO Shadowing Assignment*</b><br>Refer to interview observation schedule<br>When possible, ask to review case file, security checklist, and observe AO write-ups, close-out of case, etc. | Assigned AO                        |
| 9:00am – 9:15am                  | <b>Morning Break (Flexible work around interview)</b>                                                                                                                                                                   |                                    |
| 9:15am – 11:30am                 | <b>CF Interview Observations (Continued)</b>                                                                                                                                                                            | Assigned AO                        |
| 11:30am – 12:30pm                | <b>Lunch</b>                                                                                                                                                                                                            |                                    |
| 12:30pm – 2:00pm                 | <b>CF Interview Observations (Continued) &amp; Afternoon Break (Flexible work around interview)</b>                                                                                                                     | Assigned AO                        |
| 2:00pm – 5:00pm<br>Training Room | <b>Prepare first CF case</b>                                                                                                                                                                                            | Melodee Baines and<br>Travis Olsen |

### Day Three: Wednesday, 7 August 2019

| Time                              | Activity                                                          | Lead          |
|-----------------------------------|-------------------------------------------------------------------|---------------|
| 7:00am – 9:00am                   | <b>CF Interview (1 case)</b>                                      |               |
| Your Workspace                    | <b>SAO/Senior AO/Training Officer will observe your interview</b> |               |
| 9:00am – 9:15am                   | <b>Morning Break (Flexible work around observation)</b>           |               |
| 9:15am – 10:15am                  | <b>Debrief with SAO/Senior AO/Training Officer</b>                |               |
| Your Workspace                    |                                                                   |               |
| 10:15am – 11:30am                 | <b>Complete CF case</b>                                           |               |
| Your Workspace                    |                                                                   |               |
| 11:30am – 12:30pm                 | <b>Lunch</b>                                                      |               |
| 12:30pm – 3:00pm<br>SAO's Office  | <b>Regularly Scheduled ZHN Weekly Team Meetings</b>               | SAO           |
| 1:00pm – 3:30pm<br>Training Room  | <b>Regularly Scheduled Weekly ZHN Training</b>                    |               |
| 3:30pm – 5:00pm<br>Your Workspace | <b>Prepare Thursday cases</b>                                     | Self-directed |



## USBP In-Field ZHN Training Program

### Day Four: Thursday, 8 August 2019

| Time              | Activity                                                             | Lead          |
|-------------------|----------------------------------------------------------------------|---------------|
| 7:00am – 9:00am   | CF Interviews (2 cases)                                              |               |
| 9:00am – 9:15am   | Morning Break (Flexible work around interview)                       |               |
| 9:15am – 11:30am  | CF Interviews (continued)                                            |               |
| 11:30am – 12:30pm | Lunch                                                                |               |
| 12:30pm – 3:30pm  | Complete CF cases & Afternoon Break (Flexible work around interview) |               |
| 3:30pm – 5:00pm   | Prepare Friday cases                                                 | Self-directed |

### Day Five: Friday, 9 August 2019

| Time              | Activity                                                             | Lead          |
|-------------------|----------------------------------------------------------------------|---------------|
| 7:00am – 9:00am   | CF Interviews (3 cases)                                              |               |
| 9:00am – 9:15am   | Morning Break (Flexible work around interview)                       |               |
| 9:15am – 11:30am  | CF Interviews (continued)                                            |               |
| 11:30am – 12:30pm | Lunch                                                                |               |
| 12:30pm – 3:30pm  | Complete CF cases & Afternoon Break (Flexible work around interview) |               |
| 3:30pm – 5:00pm   | Prepare Monday cases                                                 | Self-directed |

### Week 2: Monday-Friday, 15-19 August 2019

|                     |                                                                                                   |
|---------------------|---------------------------------------------------------------------------------------------------|
| Monday 12 August    | 4 CF cases<br>*SAO/Senior AO/Training Officer will periodically observe your interviews this week |
| Tuesday 13 August   | 5 CF cases                                                                                        |
| Wednesday 14 August | 2 CF cases / Regularly Scheduled Weekly ZHN Training                                              |
| Thursday 15 August  | 5 CF cases                                                                                        |
| Friday 16 August    | 3 CF cases and cleanup                                                                            |

**Aguilar, Kimberly M**

---

**From:** Aguilar, Kimberly M  
**Sent:** Tuesday, August 6, 2019 9:09 AM  
**To:** Hanson, Greta E; Garrett, Natalie M; Talamantes, Eudelia A; Klayman, Amy S; McPherson, Yaniece A  
**Cc:** Papazian, Varsenik L; Pueschel, Tracy W; Timothee, Fritz G  
**Subject:** RE: USBP Ramp Up

Thank you for the assessments and feedback Greta and Natalie.

I confirmed with Amy that the plan is to transport cases to Krome so that there will be work available for APSO Baez there. Please do not have him observe RF case processing. The goal is to have them focused on CF. If Amy has not already discussed it, we'll schedule a phone call on their productivity and evaluations of their work.

Thanks again.

---

Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
Phone:  (b)(6)

This communication is intended for the sole use of the individual to whom it is addressed and may contain Limited Official Use Only Information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). If the reader of this communication is not the intended recipient or the employee or agent for delivering the communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this communication in error, please notify the sender immediately by telephone and destroy this transmission according to applicable DHS Policy and Instruction.

**From:** Hanson, Greta E <greta.e.hanson@uscis.dhs.gov>  
**Sent:** Tuesday, August 06, 2019 7:39 AM  
**To:** Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>; Talamantes, Eudelia A <Eudelia.A.Talamantes@uscis.dhs.gov>; Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>; Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; McPherson, Yaniece A <Yaniece.A.McPherson@uscis.dhs.gov>  
**Cc:** Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>  
**Subject:** RE: USBP Ramp Up

Good morning,

I am speaking on behalf of Yaniece who returns to Krome on Thursday, so she may have a better idea of how to organize the agent's ramp up once she is back and of what would work for her team.

The team at Krome is aware the CBP officer may be starting on Wednesday and is aware in general that he will be interviewing CF. Right now the AOs at Krome would have to share a computer (outside of the interview rooms) as there are not enough places for the current AOs plus one more to work concurrently. If they conduct staggered interviews it should not be a problem.

In the meantime I would suggest the following:

- I would have Isabella Poschl walk the agent through the process from interview to write-up. I think it would be helpful to observe at least one other officer. I would be interested in seeing the templates that were given to the CBP officers to learn with. There is also a good one that AO Poschl has given me that I will take a look

at later today.

- Krome has been interviewing mostly RFs and as of this morning has only RFs scheduled for the rest of the week. I will check in with Donna before leaving today to see if there were any other referrals.
- HQ has provided a set of checklist samples that are what we normally provide new interviewing officers – we will be sure to give these to him as well as samples of all of the decision docs and what they look like when they are completed correctly.

Thanks,

Greta

**From:** Garrett, Natalie M <[natalie.m.garrett@uscis.dhs.gov](mailto:natalie.m.garrett@uscis.dhs.gov)>

**Sent:** Monday, August 05, 2019 5:30 PM

**To:** Talamantes, Eudelia A <[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)>; Aguilar, Kimberly M <[Kimberly.M.Aguilar@uscis.dhs.gov](mailto:Kimberly.M.Aguilar@uscis.dhs.gov)>; Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>; Hanson, Greta E <[greta.e.hanson@uscis.dhs.gov](mailto:greta.e.hanson@uscis.dhs.gov)>; McPherson, Yaniece A <[Yaniece.A.McPherson@uscis.dhs.gov](mailto:Yaniece.A.McPherson@uscis.dhs.gov)>

**Cc:** Papazian, Varsenik L <[Varsenik.L.Papazian@uscis.dhs.gov](mailto:Varsenik.L.Papazian@uscis.dhs.gov)>; Pueschel, Tracy W <[Tracy.L.Pueschel@uscis.dhs.gov](mailto:Tracy.L.Pueschel@uscis.dhs.gov)>

**Subject:** RE: USBP Ramp Up

Hello, all.

Yes, we are ready to accommodate the officers at the detention facilities as early as Wednesday.

- Yes, we have sample note-taking templates, but the officers are welcome to use any that they used during their training period.
- In regard to COI, Haiti would be a good country to add, as it is one of our top five for credible fear.
- While the APSOs at BTC are not highly experienced in regard to APSO work, I think that Lazarita Chumpitazi would serve as a good mentor for the officer assigned to BTC. She is aware. (I am unsure of who has been selected at Krome.)
- Lately, we have interviewed virtually every day at BTC. However, we have no new referrals in the pipeline at this time, such that we are not guaranteed interviews on Wednesday or even later in the week. I trust that we will receive new referrals from the local airports in the coming days, such that there should be additional interviews. Krome has RF interviews in the pipeline.
- Yes, I will be available to review work and provide feedback. I believe that Yaniece plans to do the same at Krome.

Please let me know if you have any follow up questions.

Have a good evening,

Natalie

**From:** Talamantes, Eudelia A <[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)>

**Sent:** Monday, August 5, 2019 5:03 PM

**To:** Aguilar, Kimberly M <[Kimberly.M.Aguilar@uscis.dhs.gov](mailto:Kimberly.M.Aguilar@uscis.dhs.gov)>; Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>; Hanson, Greta E <[greta.e.hanson@uscis.dhs.gov](mailto:greta.e.hanson@uscis.dhs.gov)>; McPherson, Yaniece A <[Yaniece.A.McPherson@uscis.dhs.gov](mailto:Yaniece.A.McPherson@uscis.dhs.gov)>; Garrett, Natalie M <[natalie.m.garrett@uscis.dhs.gov](mailto:natalie.m.garrett@uscis.dhs.gov)>

**Cc:** Papazian, Varsenik L <[Varsenik.L.Papazian@uscis.dhs.gov](mailto:Varsenik.L.Papazian@uscis.dhs.gov)>; Pueschel, Tracy W <[Tracy.L.Pueschel@uscis.dhs.gov](mailto:Tracy.L.Pueschel@uscis.dhs.gov)>

**Subject:** RE: USBP Ramp Up

Hi – all,

After taking care of logistics for tomorrow's assessment generator training and speaking with HQ staff about the NACARA on-line I-881 application, I just had a chance to think about the training needs I ded below for our two CBP officers.

I went looking for them a few minutes ago, but they may have left already, as the Black bear is dark.

After verifying access to all systems necessary to perform APSO, if they are lacking some, will have them work on getting access. Tomorrow afternoon, I would go over the BISC with them and then pull some of the non-detained cases and have them run checks.

The morning will be tied up with training early on, but I will try to check in on them periodically, and sometime in the morning, after the dust has settled, I will forward them RAIO research COI on the key countries.

**Who is the POC on the PINs for the three language contractors, SCISA Longo or one of the MPAs?**

To reiterate, I will not be able to work with them on security checks until tomorrow afternoon, after assessment generator training is over.

At that point, I will also provide sample of checklist write-ups that we provided to AOs during the last training a week ago and answer whatever questions they have.

Let me know if you have any questions.

Have a good evening,

ET

**From:** Aguilar, Kimberly M <[Kimberly.M.Aguilar@uscis.dhs.gov](mailto:Kimberly.M.Aguilar@uscis.dhs.gov)>

**Sent:** Monday, August 05, 2019 4:01 PM

**To:** Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>; Talamantes, Eudelia A

<[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)>; Hanson, Greta E <[greta.e.hanson@uscis.dhs.gov](mailto:greta.e.hanson@uscis.dhs.gov)>; McPherson, Yaniece A <[Yaniece.A.McPherson@uscis.dhs.gov](mailto:Yaniece.A.McPherson@uscis.dhs.gov)>; Garrett, Natalie M <[natalie.m.garrett@uscis.dhs.gov](mailto:natalie.m.garrett@uscis.dhs.gov)>

**Cc:** Papazian, Varsenik L <[Varsenik.L.Papazian@uscis.dhs.gov](mailto:Varsenik.L.Papazian@uscis.dhs.gov)>; Pueschel, Tracy W <[Tracy.L.Pueschel@uscis.dhs.gov](mailto:Tracy.L.Pueschel@uscis.dhs.gov)>

**Subject:** USBP Ramp Up

Hi All—

Planning for the USBP detail developed pretty quickly. Thank you in advance for adapting quickly to having them on your APSO teams. If you have not already seen the attached, please take a look as it describes the minimum requirements HQ has identified for the proper onboarding of the Agents. It also describes the training that they have had prior to coming to ZMI.

ET, I understand that you are going to have some additional sessions with them to verify their access to systems, conduct a security checks overview, and reacquaint them with Global APSO. These sessions may spill over to Wednesday because of the other trainings currently underway in our office. Nevertheless, there are a few things I wanted to ask you about their preparation for heading to the detention facilities:

- Do they have interpreter PINS for all three contractors?
- Do they have access to all the systems necessary for performing APSO security checks?
- Do they have any questions about the APSO process?
- Are there samples of what a CF determination looks like: notes, forms, etc.?
- Is there COI they can review on the countries from which most of our cases come: China, Cuba, El Salvador, Guatemala, Honduras, India, Venezuela?

For SAPSOs, I also have a few questions,

- Do you have samples note taking templates available?
- Are there other countries that should be added to or removed from the list above for COI?
- Have you identified a Senior or experience AO whom the Agents can shadow and who can act as mentor?
- Is there sufficient work pending to permit them to observe interviews this week and prepare a write up of the cases they observe?
- Do you have capacity to review and provide feedback to them on their sample write ups?

Amy and I were present in a session on Friday in which offices that already have Agents working on CF cases provided their assessment of their work. If you have not already discussed it with Amy and want to have a brief discussion about what we heard, please let me know.

Regards,

---

Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
1501 Biscayne Blvd., Suite 300  
Phone:  (b)(6)

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**Garrett, Natalie M**

---

**From:** Garrett, Natalie M  
**Sent:** Tuesday, August 6, 2019 2:56 PM  
**To:** [REDACTED] (b)(7)(c)  
**Subject:** Welcome to BTC APSO!  
**Attachments:** front entry rules.docx

Hello, [REDACTED] (b)(7)(c)

In anticipation of your arrival at BTC tomorrow, attached is a list of items prohibited from being brought inside the detention facility, which is where the interviews occur. We are exempt from the prohibition on cell phones and smart watches. As we briefly discussed earlier today, I will be arriving around 7:30-8:00 AM, but we can certainly accommodate you earlier. The APSO unit phone is [REDACTED] You can also contact me on my cell phone: [REDACTED] [REDACTED]. The SAPSO office number is [REDACTED] At this time, we do not have interviews scheduled for tomorrow, but we can review local procedures and the like. (b)(6) (b)(6)

Please do not hesitate to reach out as you have questions. I look forward to working with you.

Best,

**Natalie M. Garrett**  
Acting Supervisory Asylum Pre-Screening Officer  
Broward Transitional Center  
Miami Asylum Office

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# Broward Transitional Center

## Front Entry Rules

All persons including staff members who enter the facility will be required to pass through a metal detector prior to entry.

- a. Each individual must remove their jacket, smock, cap/hat, belt and footwear to be searched in the parcel scanner.
- b. Each individual is required to place all hand carried items, pocket items, jewelry, and any other metal object in the parcel scanner.
- c. All persons are required to clear the metal detector prior entering the facility
- d. Persons that do not clear the metal detector the first time will be asked to check their pockets, remove any remaining items and will then be asked to clear the metal detector again. If they are unable to clear they will be instructed to submit to a search with the hand held metal detector.
- e. An individual may be required to submit to additional searches if reasonable suspicion exists which will be approved by the Facility Administrator.
- f. No individual shall refuse to submit to a search or inspection of his or her person, personal property by an authorized employee while entering or departing the facility

The following items are **not** authorized for entry into this facility and are prohibited from being introduced or possessed by employees, visitors, or detainees inside the secure perimeter.

1. Guns, ammunition, knives, metal-utensils, personal cells phones (unless approved in writing by the Facility Administrator) or **any item that could commonly be used as a weapon.**
- b. Intoxicants such as alcoholic beverages, illegal drugs, and narcotics.
- c. Personal handcuffs, handcuffs keys, and other related equipment not issued by the Security Department of this facility.
- d. Caustics/flammable materials (nail polish remover, gasoline, thinners, contact cement, alcohol, any item labeled "Harmful or fatal if Swallowed."
- e. Aerosols (hairspray, deodorants, air fresheners, furniture polish)
- f. Audio and video recording devices except as authorized by the Facility Administrator or Designee. (Devices authorized for approved security or program functions must be secured when not in use.)
- g. Televisions, portable radios, cassette tapes, compact discs (Cassette and Compact Disc players must be approved by the Facility Administrator or Designee.)
- h. Video games, scanners, computer games, PDA's, MP3 players, or iPods.
- i. Prescription or over the counter medications in excess of a daily dosage (12hour period).

# Broward Transitional Center

## Front Entry Rules

- j. Personal computers and software (to include **Smart Watches**), thumb drives
- k. Personal protection equipment (i.e. mace, kubaton, etc.)
- l. **Glass containers (bottles or dishes), Aluminum cans,**
- m. **Metal** hair picks, brushes, combs, forks, spoons or nail files.
- n. Matches or lighters
- o. Personal scissors (office or medical), letter openers, etc.
- p. Recreational reading material (non-work related) such as books, magazines, newspapers, etc.
- q. Thermal containers containing glass or with removable inserts
- r. Camouflaged clothing (except as issued by security, Emergency Teams, etc.) or extra clothing
- s. VCR tapes/DVDs/CDs (except those approved by the Assistant Facility Administrator-Security or Assistant Facility Administrator – Programs)
- v. Tools
- W. Personal documents: any card or form other than driver's license with personal information such as name, address, date of birth, names of family members, SS#, etc.
- X. **Cigars, cigarettes or E- Cigarettes**

**This is a non-smoking facility**

**This list is not all inclusive and only items conducive to the work environment should be brought into the facility**



**Andre, Lisa S**

---

**From:** Andre, Lisa S  
**Sent:** Wednesday, August 7, 2019 6:20 PM (b)(7)(c)  
**To:** [REDACTED]  
**Cc:** Frederick, Douglas D  
**Subject:** RE: Important Info for ZLA Interviews  
**Attachments:** BP CF Dissolution Template.docx; Dissolution\_CF.doc

Hi all –

Attached is the Dissolution Form as well as a template for a dissolution interview.

Thanks!  
Lisa

**From:** Andre, Lisa S  
**Sent:** Tuesday, August 06, 2019 4:59 PM  
**To:** [REDACTED] (b)(7)(c)

**Cc:** Frederick, Douglas D <douglas.d.frederick@uscis.dhs.gov>  
**Subject:** Important Info for ZLA Interviews

All –

As promised attached please find some adjudication guides as well as templates for your interviews here at ZLA.

Thanks,  
Lisa

Alien Number:  
Name:  
Country:

Date of Interview:  
Asylum Office:  
AO:

### CREDIBLE FEAR DISSOLUTION INTERVIEW NOTES

Interview Location: \_\_\_\_\_

Language: \_\_\_\_\_

Start Time: \_\_\_\_\_

Provider: \_\_\_\_\_

End Time: \_\_\_\_\_

**NOTE: These Q & A interview notes are not intended to be a complete transcript of the Credible Fear Dissolution Interview or a complete accounting of the applicant's asylum claim.**

### INTERPRETER'S OATH

Q: Good morning interpreter. This is a Credible Fear Dissolution interview. Please have the form "Request for Dissolution of Credible Fear Process" available. I am now going to place you under oath. Do you affirm you will truthfully, literally and fully interpret the questions asked by the asylum officer and the answers given by the applicant; you will not add to, delete from, comment on, or otherwise change the matter to be interpreted; and you will immediately notify the officer in this case if you become aware of your inability to interpret in a neutral manner on account of a bias for or against the applicant or the applicant's race, religion, nationality, membership in a particular social group, or political opinion?

A:

Q: Do you affirm that you will keep the information you learn today confidential and will not share it with anyone?

A:

**[Interpreter Sworn In]**

Q. Thank you interpreter. I will put the applicant on the line. Interpreter, please introduce yourself to the applicant and explain that you will be interpreting everything I say in English to him/her in [LANGUAGE], and vice versa.

Q: [To the Applicant] Do you understand the interpreter well?

A:

Q: What is your full name?

A:

### INTRODUCTION &

My name is **Officer** \_\_\_\_\_; I am an immigration officer with the United States government. The purpose of today's interview is to dissolve your credible fear claim and begin the process for you to be returned to your home country. Today's interview is confidential which means that it will not be shared with anyone in your home country. This interview will take place in three parts: First, I will go over your biographic information. Second, we will talk about why you wish to be removed from the Credible Fear process. Third, I will ask you questions that I am required to ask all applicants who wish to dissolve. At the end of the interview you will have the chance to add anything you think is important or to ask me any additional questions you may have.

Q. The interpreter on the line has been sworn in earlier and has promised to keep everything we discuss today confidential. Are you comfortable proceeding in [LANGUAGE]?

A:

Q: Do you speak any languages other than [LANGUAGE]?

A:

### OATH

Q: Before we begin, I need to place you under oath, which is a legal promise to tell the truth. Please raise your right hand. Do

Alien Number:  
Name:  
Country:

Date of Interview:  
Asylum Office:  
AO:

you affirm the testimony you will provide will be the truth, the whole truth, and nothing but the truth?

A: Yes.

**[Applicant Sworn In]**

Thank you. You may lower your hand.

**Form M-444 and Purpose of the Interview**

Q: Our records indicate that on [DATE], you were given an orientation that explained the credible fear process. Is this correct?

A:

Q: Did you understand the information that was explained to you in the orientation?

A:

Q: It is very important that you understand this orientation information before we continue with your dissolution. I am going to ask the interpreter to read you the orientation information now.

**[Interpreter read Form M-444 to the applicant]**

Q: Did you understand the information that was read to you?

A:

Q: Do you have any questions about the information that was read to you?

A:

Q: Do you have an attorney or consultant?

A:

Q: Would you like your attorney to be present on the phone during your interview?

A:

**[If applicant has attorney, but no G-28 on file, ask attorney to send G-28 to ZAR-APSO.ZAR-APSO@uscis.dhs.gov and include A# in the message]**

Q: Are you comfortable proceeding with this interview without an attorney or consultant?

A:

Q: Today, are you afraid to return to [COUNTRY]?

A:

**DISSOLUTION INTERVIEW QUESTIONS**

Q: What is your date of birth?

A:

Q: What is your country of citizenship?

A:

Q: Have either of your parents ever been citizens of the United States?

A:

**ABC ELIGIBILITY [EL SALVADOR/GUATEMALA]**

Q: When did you enter the United States for the first time?

A:

Q: Have you ever applied for asylum in the United States?

A:

Alien Number:  
Name:  
Country:

Date of Interview:  
Asylum Office:  
AO:

Q: Have you ever applied for any immigration benefit in the United States?

A:

Q: Have either of your parents ever lived in the United States?

A:

Q: What immigration status did your parents have in the US?

A:

Q: Has anyone in your family ever applied for asylum or any type of immigration benefit in the United States?

A:

Q: Do you have any medical or mental health conditions or concerns today?

A:

Q: Will your medical conditions affect your ability to understand or answer questions?

A:

Q: Are you taking any medication that will affect your ability to understand or answer questions?

A:

Q: Do you have any children?

A:

Q: Did you enter the United States with your child/children?

A:

Q: Were you separated from your child/children?

A:

Q: Do you need help locating your child/children?

A:

Q: How have you been treated while in custody?

A:

Q: You initially claimed a fear of returning to your home country. What was your fear?

A:

Q: Why did you decide to stop the asylum process?

A:

Q: Were you coerced or forced into dissolving your request for protection?

A:

Q: Briefly, tell me why you wish to withdraw from the credible fear process and return to [COUNTRY]?

A:

**[Applicant's response inserted into Request for Dissolution of Credible Fear Form]**

I am going to ask that the interpreter read to you a form called the "Request for Dissolution of Credible Fear Process" form. This is the form that you will need to sign in order to be removed from this process and returned to your country.

**[Interpreter read Dissolution Form]**

Q: Do you understand the form that was just read to you?

A:

Alien Number:  
Name:  
Country:

Date of Interview:  
Asylum Office:  
AO:

Q: Do you have any questions about what was explained to you?

A:

Q: Do you understand you may be barred from entering the U.S. for a period of 5 or more years as a result of withdrawing from the credible fear process and being removed from the U.S.?

A:

Q: Do you understand that you can change your mind and request protection any time before you are removed from the U.S.?

A:

Q: Do you have any questions?

A:

Right after this interview, I will send the paperwork to the detention facility for you to sign. Once you sign it, the deportation officer will make the necessary arrangements for your flight back to your country, which may take a few days.

Q: Do you have any other questions or concerns?

A:

Q: Did you understand all the questions asked today?

A:

Q: Did you understand your interpreter well?

A:

Q: (*To interpreter*) Were there any issues communicating with the applicant?

A:

Q: Is there anything else you want to tell me before we conclude?

A:

**Interview Concluded:**      End Time

---

# Request for Dissolution of Credible Fear Process

## - - DECLARATION OF ALIEN - -

I, \_\_\_\_\_, A-number \_\_\_\_\_, have decided to stop pursuing protection from removal through the credible fear process, and to leave the United States as soon as travel arrangements can be made. I have made this decision freely and voluntarily based upon my understanding of the following, which was explained to me by an asylum officer:

- I was placed into the credible fear process upon seeking admission to the United States, because I expressed a fear of harm upon return my country.
- I have the right to ask for protection from removal based on fear of return through the credible fear process.
- If I do not ask for protection from removal at this time, the Department of Homeland Security (DHS) will either permit me to withdraw my application for admission, or issue an order of removal against me and bar me from reentering or seeking admission to the U.S. for five (5) years or more. If I have engaged in fraud or misrepresentation of a material fact, or a false claim to U.S. citizenship, I will be permanently inadmissible to the United States.
- If I change my mind at any time prior to my final departure from the United States, I can again ask for protection from removal through the credible fear process by immediately notifying a DHS officer that I wish to seek asylum, even if I stop pursuing my request for protection at this time.
- The reason that I have decided to not ask for protection at this time is:  
(A stated reason must be recorded below. Attach extra pages if necessary)

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\_\_\_\_\_  
Alien's Last Name/Family Name (Print)      Alien's First Name (Print)      Alien's Signature

\_\_\_\_\_  
Asylum Officer's Name (Print)      Asylum Officer's Signature      Date \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Supervisory Asylum Officer's Name (Print)      Supervisory Asylum Officer's Signature      Date \_\_\_\_/\_\_\_\_/\_\_\_\_

The contents of this form were read and explained to the alien in the \_\_\_\_ language.

Interpreter Used (if any):

☐ By telephone: (list interpreter service/ID number of interpreter) \_\_\_\_\_

☐ In person: I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.

\_\_\_\_\_  
Interpreter's Signature      Date \_\_\_\_/\_\_\_\_/\_\_\_\_

**Talamantes, Eudelia A**

---

**From:** Talamantes, Eudelia A  
**Sent:** Thursday, August 8, 2019 1:18 PM  
**To:** [REDACTED] (b)(7)(c)  
**Cc:** McPherson, Yaniece A; Garrett, Natalie M; Klayman, Amy S; Timothee, Fritz G; Aguilar, Kimberly M; Hanson, Greta E  
**Subject:** FW: Interpreter PINS for 2 CBP officer

Good afternoon,

You are good to go on the interpreter PINS. USCIS emails now show you with a USCIS email address as well.

See the e-mail below from MPA Nguyen to view your PINS. To reiterate this most important task, make sure you enter all calls made even if an interpreter is not available.

To enter a new call, click on the "Add Log Entry". If you make an error, please send her an email so she can report it.

Have fun,

ET

---

**From:** Nguyen, Baotran N <Baotran.N.Nguyen@uscis.dhs.gov>  
**Sent:** Thursday, August 08, 2019 1:13 PM  
**To:** Talamantes, Eudelia A <Eudelia.A.Talamantes@uscis.dhs.gov>  
**Cc:** Trujillo, Hilda <Hilda.Trujillo@uscis.dhs.gov>  
**Subject:** RE: Interpreter PINS for 2 CBP officer

Hi Eudelia,

USCIS emails have been updated for these 2 CBP officers. They're able to view the PINs under the section "My PINs" on the [Interpreter Log page](#). Please remind them to enter all calls made even an interpreter is not available.

To enter a new call, click on the "Add Log Entry". If they make any error, please send me an email so I can report it.

Let me know if you have any questions. Thank you.

RAIO
RAD
Asylum
IO
COS
Perf Mgmt & Planning
FDNS
TRIG
Research
RAIO Employee Innovations
RAIO Thrive

Interpreter Log

New Interpreter Log

Welcome to the Asylum Division interpreter log!

The purpose of the log is to track calls made by Asylum Division Staff using the interpreter services contract. This helps the Division reconcile invoices, enforce performance metrics in the contract, and provide feedback to the contractors regarding call trends and interpreter/monitor performance. It is important to enter all calls made, including those where an interpreter is not available. These log entries are crucial in identifying trends in calls as well as ways to improve vendor performance. To enter a new call, click on the **Add Log Entry** button below.

Additional resources are located under the **Resource Materials** section of the page. Resources include instructions on how to use the new log, a sample scenario with screenshots and dialing instructions for each vendor.

Information on assigned interpreter pins can be located under the section **My PINs**. In this section you can see all pins associated with your e-mail address. If you are missing a pin, have not received pins, or are a new employee in need of pins, please request the pin by clicking the **Request Pin** button and completing the request form. A separate request must be submitted for each vendor where a new pin is required. All new pin requests should be requested directly by the user using the form. New pin requests are generally processed on weekly basis. Additionally, please notify the CORs and Program Manager if you no longer require a pin as pins will be deactivated.

Add Log Entry

My Log Items
(calls over 60 days old may not appear)

Office Interviewing For
Interpreter Vendor Name
Reason for Call
Language Spoken
Call Duration

There are no items to show in this view of the "Interpreter Log" list.

Report an Issue

Communications
Program Office and Asylum Emergency Contacts
Mission Support
Resource Management

RAIO Clearance
Emergency Management
Information Technology
RAIO Ignite

My PINs

Submit a separate PIN request for each vendor

No items found. To request new PIN, click Request PIN.

Request PIN

Resource Materials

Name

Interpreter Log Instructions
...

Language Certification Memorandum
...

Language Certification SF-182 PALMS
...

Language Certification Speaking Test
...

Sample Scenario with Screenshots
...

Update to Interpreter Services Realignment Memo
...

Dialing Instructions

When using your PIN, use your office dialing instructions associated with your PIN assignment

Name

Dialing Instructions - Language Line
...

Baotran N. Nguyen  
Management & Program Analyst  
Department of Homeland Security  
USCIS- RAIO - Miami Asylum Office  
Phone: (b)(6)

AMERICAN  
OVERSIGHT

DHS-19-1398-A-000159



## Interpreter Log

## New Interpreter Log

Welcome to the Asylum Division interpreter log!

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Add Log Entry

## My Log Items (calls over 60 days old may not appear)

Office Interviewing For Interpreter Vendor Name Reason for Call Language Spoken Call Duration

There are no items to show in this view of the "Interpreter Log" list.

Report an Issue

|                                              |                        |
|----------------------------------------------|------------------------|
| Communications                               | RAIO Clearance         |
| Program Office and Asylum Emergency Contacts | Emergency Management   |
| Mission Support                              | Information Technology |
| Resource Management                          | RAIO Ignite            |

## My PINs

Submit a separate PIN request for each vendor

No items found. To request new PIN, click Request PIN.

Request PIN

## Resource Materials

| Name                                            |     |
|-------------------------------------------------|-----|
| Interpreter Log Instructions                    | ... |
| Language Certification Memorandum               | ... |
| Language Certification SF-182 PALMS             | ... |
| Language Certification Speaking Test            | ... |
| Sample Scenario with Screenshots                | ... |
| Update to Interpreter Services Realignment Memo | ... |

## Dialing Instructions

When using your PIN, use your office dialing instructions associated with your PIN assignment

| Name                                 |     |
|--------------------------------------|-----|
| Dialing Instructions - Language Line | ... |

**Klayman, Amy S**

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**From:** Klayman, Amy S  
**Sent:** Friday, August 9, 2019 10:38 AM  
**To:** McPherson, Yaniece A; Garrett, Natalie M; Hanson, Greta E  
**Cc:** Aguilar, Kimberly M; Timothee, Fritz G  
**Subject:** FW: Schedules and Other Details for CF for USBP  
**Attachments:** HB 5300-13A CBP Travel Handbook.pdf; Management Guidance for Implementing the Physical Fitness Program.pdf

Forwarding to our SAPSOs for their visibility.

**From:** Alexander, Shannon <shannon.alexander@uscis.dhs.gov>  
**Sent:** Friday, August 9, 2019 11:21 AM  
**To:** Roberts, Rhonda J <Rhonda.J.Roberts@uscis.dhs.gov>; Hussey, Jedidah M <Jedidah.M.Hussey@uscis.dhs.gov>; Lafferty, John L <John.L.Lafferty@uscis.dhs.gov>; O'Malley, Robert L <robert.l.omalley@uscis.dhs.gov>; Caudill-Mirillo, Ashley B <Ashley.Caudill-Mirillo@uscis.dhs.gov>; Haertling, Peter G <Peter.G.Haertling@uscis.dhs.gov>; Daum, Robert L <Robert.L.Daum@uscis.dhs.gov>; Heinrich, Lorie R <Lorie.R.Heinrich@uscis.dhs.gov>; Gulati, Sonia <Sonia.Gulati@uscis.dhs.gov>; Lehman, Danielle E <Danielle.E.Lehman@uscis.dhs.gov>; Zeleke, Aster N <Aster.Zeleke@uscis.dhs.gov>; Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; Tyrell, Jody A <Jody-Ann.Tyrell@uscis.dhs.gov>; Radel, David M <David.M.Radel@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>; Raufer, Susan <Susan.Raufer@uscis.dhs.gov>; Boyle, Meghann W <Meghann.Boyle@uscis.dhs.gov>; Dhanjal, Manpreet S <Manpreet.S.Dhanjal@uscis.dhs.gov>; Mikesell, Hannah K <hannah.k.mikesell@uscis.dhs.gov>; Bondy, Timothy <Timothy.Bondy@uscis.dhs.gov>; Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>; Gadson, Irvin C <Irvin.C.Gadson@uscis.dhs.gov>; Isaacson, Mollie <Mollie.Isaacson@uscis.dhs.gov>; Hong, Marianne X <Marianne.X.Hong@uscis.dhs.gov>; Madsen, Kenneth S <Kenneth.S.Madsen@uscis.dhs.gov>; Rellis, Jennifer L <Jennifer.L.Rellis@uscis.dhs.gov>; Flanagan, Lisa M <Lisa.M.Flanagan@uscis.dhs.gov>; Kruszka, Robert F <Robert.F.Kruszka@uscis.dhs.gov>; Bardini, Emilia M <Emilia.M.Bardini@uscis.dhs.gov>; Hemming, Bryan D <Bryan.D.Hemming@uscis.dhs.gov>; Douglas, Audrey M <Audrey.M.Douglas@uscis.dhs.gov>; Motolenich Torres, Catherine <catherine.motolenichtorres@uscis.dhs.gov>; Timothee, Fritz G <Fritz.G.Timothee@uscis.dhs.gov>; Brodrecht, Anna M <anna.m.brodrecht@uscis.dhs.gov>; Carter, Lovely L <lovely.l.carter@uscis.dhs.gov>; Sellung, Ashlee <ashlee.sellung@uscis.dhs.gov>; Fairbank, Christina <Christina.Fairbank@uscis.dhs.gov>; Berger, Jack S III <Jack.S.Berger@uscis.dhs.gov>; Robinson, Joi L <Joi.L.Robinson@uscis.dhs.gov>; Jackson, Yolanda <Yolanda.Jackson@uscis.dhs.gov>; Powless, Crystal Y <Crystal.Y.Powless@uscis.dhs.gov>  
**Subject:** Schedules and Other Details for CF for USBP

Happy Friday Everyone,

We hope all is going well this week. We have received some great feedback and really appreciate everyone's excellent efforts.

Below please find more information about the rules governing agents' schedules, physical fitness requirement, meals, overtime and comp time, leave and commuting.

USBP provided two documents that you may find helpful: CBP's Travel Handbook and Management Guidance for Implementing the Physical Fitness Program. They are attached.

We anticipate that there may be questions on the information below. Please send them to me, Bob and

Rhonda.

Thank you.

### ***Pilot End Date***

- USBP agents in cohorts 2 and 3 will complete their details on Friday, December 20th.

### ***Daily Schedule***

- BPAs will follow their existing pay reform election regarding the hours worked per day. Once a year, all agents select either an 8, 9 or 10 hours per work day (5 days a week). The hourly rate they are paid overtime is scalable based on the amount of OT they work. The majority of the agents should be on a 10 hour day.
- Agents must not change their schedule.
- Asylum field offices can schedule BPAs to work weekends, nights and holidays. This would be part of their 5 day work week with two days off in the middle of the week.
- If Saturday and/or Sunday are the 6th and/or 7th scheduled work day(s) of the week then this would all be considered 45 ACT OVERTIME (please see the overtime section below).

### ***Meals***

- According to the Border Patrol Agent Pay Reform Act, BPAs working 10 hours per day, 5 days a week, may have an unpaid off-duty meal break (if requested with no description of the length of timer).
- Under the BPAPRA, agents' says may be "interrupted" by an unpaid meal break with supervisor's approval. While the supervisor has the discretion to approve or deny a request for an unpaid meal break, agents are not required to take an unpaid meal break if they have not requested such a break.
- BPAs are allowed to have a meal within their 10 hour day but the USBP does not schedule unpaid meal breaks.
- In order to avoid complicating agents' scheduling or pay, Asylum will accommodate this practice. **Accordingly, 10 hours is 10 hours regardless of whether an agent takes a lunch.** If an agent on a 10 hour day schedule begins work at 7:00 AM, he or she will finish at 5:00 PM.

### ***Overtime and Comp Time***

- If a BPA works more than his or her selected level, this work is converted to comp time. If the BPA is on a 10 hour schedule, any hours in excess of 100 hours per two week pay period will be comp time.
  - For example, if Agent Friday is scheduled 10 hours per day and ends up working 11 hours, she has earned 1 hour of comp time. She is then allowed to use it like any other type of leave unless she is on leave restriction. Agents must coordinate with their SAO for scheduling.
- BPAs cannot earn more than 10 hours of comp time per pay period without USBP supervisor approval.
- BPAs are allowed to earn up to 240 hours (not 260) of comp time per year and they must use that leave within 26 pay periods of earning that leave or they will forfeit it. Therefore, we will probably encounter BPAs that already have use or lose comp time.
  - Barring exigent circumstances and leave restriction, agents are permitted to take this leave. BPAs with use or lose comp time should schedule and coordinate with their SAO and USBP supervisor. This use or lose may be very minimal - sometimes as short as 15 minutes.

- ***Scheduled OT is true OT and not Comp time. Unscheduled OT is Comp Time. For example, if a BPA is working on something that carries beyond the end of their regularly scheduled 10 hour work day, it is comp time.***
- Any hours scheduled over an agents' 10 hours per day, or 6th or 7th worked day per week, is overtime under the Federal Employees Pay Act of 1945. This must be approved and funded by the USBP and reimbursed by USCIS.
- Please do not schedule agents for more than 10 hours per day or more than five days per week without consulting and coordinating with HQ. The default should be to schedule the BPAs 10 hours per day, 5 days a week.

### ***Physical Fitness Program***

- BPAs can work out up to 3 hours per week on the clock. This can be completed incrementally across the week.
- Workout time does not need to be scheduled. However, as a courtesy it should be coordinated with the SAO. It must be approved by the SAO.
- Donning and doffing workout gear, showering and travel to and from the closest "approved" workout facility is not counted as time against the 3 hour per week limitation.
- "Approved" location is dependent upon the SAO.
- BPAs may use the gym at their hotel while on duty with SAO approval if use of this gym is reasonable. The BPAs would still be held to 3 hours per week. They may work out at any gym closer to the office at their own cost.
- Ultimately, there will be some differences in what is available. A workout does not necessarily require a gym. BPAs can perform calisthenics anywhere. In all cases, consideration must be given to securing gear.

### ***Quarterly Qualifiers (and other trainings required to maintain LEO status)***

- Certain training to maintain their LEO status and current position (i.e. Quarterly Quals, SLCP, SLT, etc.) is allowable but needs to be scheduled with their SAO in coordination with the USBP. These trainings should be of short duration.
- Any questions about what would qualify can be directed to HQ for discussion and resolution with USBP.

### ***Leave***

- USBP approved master leave will be applicable while working for Asylum. BPAs must coordinate and schedule this with their SAO.
- Additionally, any other type of leave (EAL, SL, SS, TC, etc.) will be coordinated directly with the SAO on case by case basis.
- Some of this leave is already noted in the spreadsheets.

### ***Commuting***

- According to BPAPRA:
  - (e) Travel Time.--Travel time to and from home and duty station by a BPA shall not be considered hours of work under any provision of law.
- However, commuting distance is a possible factor of reimbursement. According to the CBP handbook, any commute greater than their normal commuting can be reimbursed.
  - If the travel is more than 50 miles (one way), please reach out to HQ to discuss providing a travel authorization or an alternative location.
  - If the travel is less than 50 miles (one way) per day, Chapter 4 of the Handbook (attached

for reference) defines local travel and how a difference in travel from their Permanent Duty Station (PDS) to a Temporary Duty Station (TDS) is to be reimbursed if the excess amount of travel is greater to the TDS. It does not include work hours and is to be entered in USBP's travel system under Local Expense Report.

Best,

**Shannon Alexander**

Asylum Officer

Asylum Training Division

DHS/USCIS/RAIO

Cube:

Cell:  (b)(6)

Referred to U.S. Customs and Border Protection

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**Talamantes, Eudelia A**

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**From:** Talamantes, Eudelia A  
**Sent:** Monday, August 12, 2019 12:10 PM  
**To:** Vazquez, Robert M; Baez, Jonathan; Nguyen, Baotran N  
**Cc:** McPherson, Yaniece A; Garrett, Natalie M; Klayman, Amy S; Timothee, Fritz G; Aguilar, Kimberly M; Hanson, Greta E  
**Subject:** RE: Interpreter PINS for 2 CBP officer

Hi –

No – you can use those. Baotran had indicated that you can use those, see her instructions below. The PINS should appear under the section “My PINS” on the [Interpreter Log page](#) when you use your USCIS outlook address.

ET

**From:** Vazquez, Robert M <[robert.m.vazquez@uscis.dhs.gov](mailto:robert.m.vazquez@uscis.dhs.gov)>  
**Sent:** Monday, August 12, 2019 1:05 PM  
**To:** Talamantes, Eudelia A <[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)>; Baez, Jonathan <[jonathan.baez@uscis.dhs.gov](mailto:jonathan.baez@uscis.dhs.gov)>; Nguyen, Baotran N <[Baotran.N.Nguyen@uscis.dhs.gov](mailto:Baotran.N.Nguyen@uscis.dhs.gov)>  
**Cc:** McPherson, Yaniece A <[Yaniece.A.McPherson@uscis.dhs.gov](mailto:Yaniece.A.McPherson@uscis.dhs.gov)>; Garrett, Natalie M <[natalie.m.garrett@uscis.dhs.gov](mailto:natalie.m.garrett@uscis.dhs.gov)>; Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>; Timothee, Fritz G <[Fritz.G.Timothee@uscis.dhs.gov](mailto:Fritz.G.Timothee@uscis.dhs.gov)>; Aguilar, Kimberly M <[Kimberly.M.Aguilar@uscis.dhs.gov](mailto:Kimberly.M.Aguilar@uscis.dhs.gov)>; Hanson, Greta E <[greta.e.hanson@uscis.dhs.gov](mailto:greta.e.hanson@uscis.dhs.gov)>  
**Subject:** RE: Interpreter PINS for 2 CBP officer

Good afternoon, hope all is well

We have pins that correspond to HQ (ZHQ); should we deactivate those pins and request pins corresponding to ZMI?

Thank you

**From:** Talamantes, Eudelia A <[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)>  
**Sent:** Thursday, August 8, 2019 2:18 PM  
**To:** Baez, Jonathan <[jonathan.baez@uscis.dhs.gov](mailto:jonathan.baez@uscis.dhs.gov)>; Vazquez, Robert M <[robert.m.vazquez@uscis.dhs.gov](mailto:robert.m.vazquez@uscis.dhs.gov)>  
**Cc:** McPherson, Yaniece A <[Yaniece.A.McPherson@uscis.dhs.gov](mailto:Yaniece.A.McPherson@uscis.dhs.gov)>; Garrett, Natalie M <[natalie.m.garrett@uscis.dhs.gov](mailto:natalie.m.garrett@uscis.dhs.gov)>; Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>; Timothee, Fritz G <[Fritz.G.Timothee@uscis.dhs.gov](mailto:Fritz.G.Timothee@uscis.dhs.gov)>; Aguilar, Kimberly M <[Kimberly.M.Aguilar@uscis.dhs.gov](mailto:Kimberly.M.Aguilar@uscis.dhs.gov)>; Hanson, Greta E <[greta.e.hanson@uscis.dhs.gov](mailto:greta.e.hanson@uscis.dhs.gov)>  
**Subject:** FW: Interpreter PINS for 2 CBP officer

Good afternoon,

You are good to go on the interpreter PINS. USCIS emails now show you with a USCIS email address as well.

See the e-mail below from MPA Nguyen to view your PINS. To reiterate this most important task, make sure you enter all calls made even if an interpreter is not available.

To enter a new call, click on the “Add Log Entry”. If you make an error, please send her an email so she can report it.

Have fun,

ET

**From:** Nguyen, Baotran N <[Baotran.N.Nguyen@uscis.dhs.gov](mailto:Baotran.N.Nguyen@uscis.dhs.gov)>  
**Sent:** Thursday, August 08, 2019 1:13 PM  
**To:** Talamantes, Eudelia A <[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)>

Cc: Trujillo, Hilda <Hilda.Trujillo@uscis.dhs.gov>  
Subject: RE: Interpreter PINS for 2 CBP officer

Hi Eudelia,

USCIS emails have been updated for these 2 CBP officers. They're able to view the PINs under the section "My PINs" on the [Interpreter Log page](#). Please remind them to enter all calls made even an interpreter is not available.  
To enter a new call, click on the "Add Log Entry". If they make any error, please send me an email so I can report it.

Let me know if you have any questions. Thank you.

RAIORADAsylumIOCOSPerf Mgmt & PlanningFDNSTRIGResearchRAIO Employee InnovationsRAIO Thrive

Interpreter Log

CommunicationsProgram Office and Asylum Emergency ContactsMission SupportResource Management

RAIO ClearanceEmergency ManagementInformation TechnologyRAIO Ignite

New Interpreter Log

Welcome to the Asylum Division interpreter log!

The purpose of the log is to track calls made by Asylum Division Staff using the interpreter services contract. This helps the Division reconcile invoices, enforce performance metrics in the contract, and provide feedback to the contractors regarding call trends and interpreter/monitor performance. It is important to enter all calls made, including those where an interpreter is not available. These log entries are crucial in identifying trends in calls as well as ways to improve vendor performance. To enter a new call, click on the **Add Log Entry** button below.

Additional resources are located under the **Resource Materials** section of the page. Resources include instructions on how to use the new log, a sample scenario with screenshots and dialing instructions for each vendor.

Information on assigned interpreter pins can be located under the section **My PINs**. In this section you can see all pins associated with your e-mail address. If you are missing a pin, have not received pins, or are a new employee in need of pins, please request the pin by clicking the **Request Pin** button and completing the request form. A separate request must be submitted for each vendor where a new pin is required. All new pin requests should be requested directly by the user using the form. New pin requests are generally processed on weekly basis. Additionally, please notify the CORs and Program Manager if you no longer require a pin as pins will be deactivated.

Add Log Entry

My Log Items

(calls over 60 days old may not appear)

Office Interviewing ForInterpreter Vendor NameReason for CallLanguage SpokenCall Duration

There are no items to show in this view of the "Interpreter Log" list.

Report an Issue

My PINs

Submit a separate PIN request for each vendor

No items found. To request new PIN, click Request PIN.

Request PIN

Resource Materials

Name

Interpreter Log Instructions...

Language Certification Memorandum...

Language Certification SF-182 PALMS...

Language Certification SpeakingTest...

Sample Scenario with Screenshots...

Update to Interpreter Services Realignment Memo...

Dialing Instructions

When using your PIN, use your office dialing instructions associated with your PIN assignment

Name

Dialing Instructions - Language Line...

Baotran N. Nguyen  
Management & Program Analyst  
Department of Homeland Security  
USCIS- RAIO - Miami Asylum Office  
Phone: (b)(6)

## Interpreter Log

## New Interpreter Log

Welcome to the Asylum Division interpreter log!

The purpose of the log is to track calls made by Asylum Division Staff using the interpreter services contract. This helps the Division reconcile invoices, enforce performance metrics in the contract, and provide feedback to the contractors regarding call trends and interpreter/monitor performance. It is important to enter all calls made, including those where an interpreter is not available. These log entries are crucial in identifying trends in calls as well as ways to improve vendor performance. To enter a new call, click on the **Add Log Entry** button below.

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Add Log Entry

### My Log Items (calls over 60 days old may not appear)

Office Interviewing For Interpreter Vendor Name Reason for Call Language Spoken Call Duration

There are no items to show in this view of the "Interpreter Log" list.

Report an Issue

|                                              |                        |
|----------------------------------------------|------------------------|
| Communications                               | RAIO Clearance         |
| Program Office and Asylum Emergency Contacts | Emergency Management   |
| Mission Support                              | Information Technology |
| Resource Management                          | RAIO Ignite            |

### My PINs

Submit a separate PIN request for each vendor

No items found. To request new PIN, click Request PIN.

Request PIN

### Resource Materials

| Name                                            |     |
|-------------------------------------------------|-----|
| Interpreter Log Instructions                    | ... |
| Language Certification Memorandum               | ... |
| Language Certification SF-182 PALMS             | ... |
| Language Certification Speaking Test            | ... |
| Sample Scenario with Screenshots                | ... |
| Update to Interpreter Services Realignment Memo | ... |

### Dialing Instructions

When using your PIN, use your office dialing instructions associated with your PIN assignment

| Name                                 |     |
|--------------------------------------|-----|
| Dialing Instructions - Language Line | ... |



Andre, Lisa S

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**From:** Andre, Lisa S  
**Sent:** Tuesday, August 13, 2019 2:37 PM  
**To:** #ZLA ALL SECTION CHIEFS  
**Subject:** BP Training Schedule

All – Here is the schedule that I have created for the BP agents for the remainder of their detail with us (after the move). It is exceptionally generous in terms of ramp up but I honestly think giving them more work sooner will just cause more confusion, especially with their travel back and forth to their home offices. I just wanted to send this out before the HQ call.

Thanks,  
Lisa

### **Training Schedule / Ramp Up**

**Wednesday, August 21** – Miguel, Luis, Shone and Ubaldo arrive at 1:00 PM – get PIVs programed, set-up new office (Travel day for Armando).

**Thursday, August 22** - Miguel, Luis and Ubaldo each independently interview one case. Shone gets an interview observation. Armando gets settled into new office and reviews materials.

**Friday, August 23** - Shone and Ubaldo independently interview one case. Armando gets an interview observation. (Travel day for Miguel and Luis).

**Monday, August 26** – Shone, Ubaldo and Armando independently interview one case. Miguel and Luis will get day at home office to set-up and review materials.

**Tuesday, August 27** – Shone and Armando independently interview one case. (Travel day for Ubaldo). Miguel and Luis will complete one case each at home office.

**Wednesday, August 28** – Shone and Armando wrap up any pending cases, review materials. (Travel day for both agents is Thursday). Ubaldo will get day at home office to set-up and review materials. Miguel and Luis will complete one case each at home office.

**Thursday, August 29** – No agents will report to ZLA (Travel day for Shone and Armando). Ubaldo, Miguel and Luis will complete one case each at home office.

**Friday, August 30** – Shone and Armando will get day at home office to set-up and review materials. Ubaldo, Miguel and Luis will complete one case each at home office.

**Tuesday, September 3** – Shone, Armando and Ubaldo will interview one case each. Miguel and Luis will interview two.

**Wednesday, September 4** – Shone and Armando will interview one case each. Miguel, Luis and Ubaldo will interview two.

**Thursday, September 5** - Shone and Armando will interview one case each. Miguel, Luis and Ubaldo will interview two.

**Friday, September 6** – All officers will interview one case each and use additional time to wrap up corrections for the week.

**Monday, September 12 – December 22:** All officers will be assigned 2 cases each. SAO will determine when each officer can be assigned additional cases based on individual performance with the goal of assigning 4 cases/day to each officer. Friday caseloads will be reduced by one case as needed in order to allow time for corrections by the interviewing officer.

**From:** Garrett, Natalie M  
**Sent:** Wednesday, August 14, 2019 7:15 AM  
**To:** Vazquez, Robert M  
**Subject:** FW: HQ-Approved CF Checklists  
**Attachments:** Sample A - Positive Persecution.pdf; Sample D - Negative Credibility.pdf; Sample C - Negative Multiple Claims.pdf; Sample B - Positive CAT.pdf

Hi, Robert.

See attached and below.

**From:** Garrett, Natalie M  
**Sent:** Friday, August 2, 2019 8:13 AM  
**To:** Biagi, Andrew J <[andrew.j.biagi@uscis.dhs.gov](mailto:andrew.j.biagi@uscis.dhs.gov)>  
**Subject:** FW: HQ-Approved CF Checklists

Hi, Andrew.

See below and attached.

I want to note that these checklists were drafted on the old version of the form. The new checklist must be used and must contain a written credibility analysis for all positive determinations. Nevertheless, the analysis in parts C. and D. remains the same. For positive determinations, we typically only analyze Nexus or Consent/Acquiescence. The example labeled "Negative Multiple Claims" can be a bit confusing. It is easier to discuss in person, which we can do when you are here.

**From:** Garrett, Natalie M  
**Sent:** Wednesday, May 15, 2019 11:51 AM  
**To:** Bradley, Kevin C (KB) <[kevin.c.bradley@uscis.dhs.gov](mailto:kevin.c.bradley@uscis.dhs.gov)>; Perry, Rickena C <[rickena.c.perry@uscis.dhs.gov](mailto:rickena.c.perry@uscis.dhs.gov)>; Schwartz, Allen E <[Allen.E.Schwartz@uscis.dhs.gov](mailto:Allen.E.Schwartz@uscis.dhs.gov)>  
**Cc:** Lumbi, Elba M <[elba.m.lumbi@uscis.dhs.gov](mailto:elba.m.lumbi@uscis.dhs.gov)>  
**Subject:** HQ-Approved CF Checklists

Hello, all.

In case you are unfamiliar with them, I want to share the attached. These are CF Checklists that had been disseminated by HQ via the ECN. Their significance is two-fold:

- (1) They are examples of what is deemed legally sufficient. (In other words, additional analysis is typically not required on the CF Checklist.)
- (2) There will be times when we need to send cases to HQ for review, and HQ will provide feedback, which is shared with leadership.

Please let me know if you have any questions. We can always chat about any questions or concerns that you may have.

Thank you,

Natalie

**Natalie M. Garrett**

Acting Supervisory Asylum Pre-Screening Officer  
Broward Transitional Center  
Miami Asylum Office

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**CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS**  
(b)(6)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                          |              |                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------------------------------------------|
| <b>A</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>COUNTRY:</b> <span style="border: 1px solid black; display: inline-block; width: 80px; height: 20px; vertical-align: middle;"></span> | <b>APSO:</b> | <b>DATE:</b>                                                                             |
| <ul style="list-style-type: none"> <li>If there is a significant possibility of establishing eligibility for asylum or withholding under 241(b)(3), complete A., B., and C only.</li> <li>If there is a significant possibility of establishing eligibility for protection under the Convention Against Torture, complete A., B., and D only.</li> <li>If there is not a significant possibility of establishing eligibility for asylum or withholding of removal under 241(b)(3) or for withholding or deferral of removal under the CAT pursuant to 8 CFR 208.16(c) or 208.17, complete Sections A., B., C., and D. unless the claim fails in Section A (Harm) or Section B. (Credibility), in which case, stop and complete Form I-870.</li> </ul> |                                                                                                                                          |              |                                                                                          |
| <b>A. Harm</b> (If yes to A.1. and/or A.2., move to Part B. If no to A.1. and A.2., STOP, and complete Form I-870.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                          |              |                                                                                          |
| 1. Has the applicant testified that he or she has experienced <u>past</u> harm in his or her country?<br>If yes, identify any past harm or mistreatment suffered, and identify all relevant entit(ies).<br><b>Harm: death threats</b><br><b>Entit(ies): 18 St. Gang</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                          |              | <b>Yes</b> <input checked="" type="checkbox"/><br><br><b>No</b> <input type="checkbox"/> |
| 2. Has the applicant testified that he or she fears <u>future</u> harm if returned to his or her country?<br>If yes, identify any harm or mistreatment feared, and identify all relevant entit(ies).<br><b>Harm: death</b><br><b>Entit(ies): 18 St. Gang</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                          |              | <b>Yes</b> <input checked="" type="checkbox"/><br><br><b>No</b> <input type="checkbox"/> |
| <b>B. Credibility</b> (Select the appropriate box and if testimony was partially credible or not credible, then: (1) identify the credibility factor and explain the evidence to support it, (2) provide the applicant's explanation, and (3) address if the explanation is reasonable for each factor. After analyzing all relevant credibility factors, consider them in the totality of the circumstances.)                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                          |              |                                                                                          |
| <b>Applicant's testimony was credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was consistent, detailed, and plausible. Therefore, it is found credible. (Check box and move to Section C. and/or D.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                          |              | <input checked="" type="checkbox"/>                                                      |
| <b>Applicant's testimony was partially credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was found partially credible. The applicant's testimony was found credible regarding the relevant facts that are sufficient to establish a credible fear. (Check box, explain, and move to Section C. and/or D.)                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                          |              | <input type="checkbox"/>                                                                 |
| <b>Applicant's testimony was not credible:</b> Considering the identified credibility issues, the absence of reasonable explanations for those issues, and taking into consideration the applicant's individual circumstances, the applicant's testimony is found not credible under the totality of the circumstances and all relevant factors. (Check box, explain, STOP, and complete Form I-870.)                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                          |              | <input type="checkbox"/>                                                                 |
| <b>C. Persecution</b> (If yes to C.1. or C.2., complete C.3. If no to C.1. and C.2., complete C.3.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                          |              |                                                                                          |
| 1.a. <u>Past Persecution:</u> There is a <b>significant possibility</b> the applicant can establish in a full hearing that: <ul style="list-style-type: none"> <li>The harm experienced was sufficiently serious to amount to persecution;</li> <li>The entity that harmed the applicant was motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion; <b>and</b></li> <li>The entity that harmed the applicant was an agent of the government or an entity that the government was unable or unwilling to control.</li> </ul> <b>AND</b>                                                                                                                  |                                                                                                                                          |              | <b>Yes</b> <input type="checkbox"/><br><br><b>No</b> <input type="checkbox"/>            |
| 1.b. There is no evidence so substantial that the presumption of well-founded fear can be rebutted.<br><br>or<br><br><b>If the presumption of well-founded fear has been rebutted,</b> there is a <b>significant possibility</b> that asylum could be granted based on: (1) the severity of the past persecution; or (2) a reasonable possibility of other serious harm.                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                          |              |                                                                                          |
| 2. <u>Future Persecution:</u> There is a <b>significant possibility</b> that the applicant can establish in a full hearing that: <ul style="list-style-type: none"> <li>The applicant fears harm that is sufficiently serious to amount to persecution;</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                          |              |                                                                                          |

## CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>The applicant               <ul style="list-style-type: none"> <li>1) possesses a protected characteristic,</li> <li>2) of which the feared entity is or could become <u>aware</u> or the feared entity believes that the applicant possess a protected characteristic,</li> <li>3) the feared entity has the <u>capability</u> to persecute the applicant,</li> <li>4) the feared entity has the <u>inclination</u> to persecute the applicant, OR there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of a protected ground;</li> </ul> </li> <li>The entity would be motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion;</li> <li>The entity that would harm the applicant would be an agent of the government or an entity that the government would be unable or unwilling to control; <b>and</b></li> <li>Under all the circumstances, it would not be reasonable for the applicant to relocate within the applicant's country to avoid future persecution.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                         | Yes <input checked="" type="checkbox"/><br><br>No <input type="checkbox"/> |
| <b>3. Written Analysis:</b><br><br><b>Race</b> <input type="checkbox"/> <b>Religion</b> <input type="checkbox"/> <b>Nationality</b> <input type="checkbox"/> <b>Membership in a Particular Social Group</b> <input checked="" type="checkbox"/> <b>Political Opinion</b> <input type="checkbox"/><br><br><i>If credible fear of persecution established, identify the protected ground and specify:</i> <b>Immediate family members of Yaneth Gonzalez (her mother)</b><br><br><i>As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.</i><br><b>Nexus: To prevent the applicant's mother from testifying in court against them, the gang members threatened to hurt her mother "where it hurts the most," which her mother believes refers to her children. A week later, a gang member directly threatened the applicant saying, "tell your mom that if she testifies, you will be the one who pays." The applicant also heard of news reports of witnesses' family members being killed.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                            |
| <b>D. Torture</b> (Make a selection in D.1. and, as needed, complete D.2.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                            |
| <b>D.1.</b> There is a <b>significant possibility</b> the applicant can establish in a full hearing that: <ul style="list-style-type: none"> <li>The feared harm would be specifically intended to inflict severe pain or suffering on the applicant;</li> <li>The feared harm would constitute severe physical or mental pain or suffering;</li> <li>The feared harm would be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity;</li> <li>The applicant would be in the offender's custody or physical control; <b>and</b></li> <li>The harm would not arise only from or be inherent in or incidental to lawful sanctions.</li> </ul> <p>In making this determination, the following evidence must be considered:</p> <ul style="list-style-type: none"> <li>Evidence of past torture inflicted upon the applicant;</li> <li>Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;</li> <li>Evidence of gross, flagrant or mass violations of human rights within the country of removal; and other relevant information regarding conditions in the country of removal.</li> </ul> <p>If the applicant has demonstrated that there is a <b>significant possibility</b> of establishing past torture <u>AND</u> there are no changes in circumstances so substantial such that the applicant does not have a credible fear of torture, the applicant will be found to have established a credible fear of torture.</p> | Yes <input type="checkbox"/><br><br>No <input type="checkbox"/>            |
| <b>D.2. Written Analysis:</b> <i>As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                            |

# CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

(b)(6)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                          |              |                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------------------------------------------|
| <b>A</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>COUNTRY:</b> <span style="border: 1px solid black; display: inline-block; width: 80px; height: 20px; vertical-align: middle;"></span> | <b>APSO:</b> | <b>DATE:</b>                                                                             |
| <ul style="list-style-type: none"> <li>If there is a significant possibility of establishing eligibility for asylum or withholding under 241(b)(3), complete A., B., and C only.</li> <li>If there is a significant possibility of establishing eligibility for protection under the Convention Against Torture, complete A., B., and D only.</li> <li>If there is not a significant possibility of establishing eligibility for asylum or withholding of removal under 241(b)(3) or for withholding or deferral of removal under the CAT pursuant to 8 CFR 208.16(c) or 208.17, complete Sections A., B., C., and D. unless the claim fails in Section A (Harm) or Section B. (Credibility), in which case, stop and complete Form I-870.</li> </ul> |                                                                                                                                          |              |                                                                                          |
| <b>A. Harm</b> (If yes to A.1. and/or A.2., move to Part B. If no to A.1. and A.2., STOP, and complete Form I-870.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                          |              |                                                                                          |
| 1. Has the applicant testified that he or she has experienced <u>past</u> harm in his or her country?<br>If yes, identify any past harm or mistreatment suffered, and identify all relevant entit(ies).<br><b>Harm: (1) beatings, death threats; (2) stolen land, death threats</b><br><b>Entit(ies): (1) New Generation cartel; (2) neighbor Hector</b>                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                          |              | <b>Yes</b> <input checked="" type="checkbox"/><br><br><b>No</b> <input type="checkbox"/> |
| 2. Has the applicant testified that he or she fears <u>future</u> harm if returned to his or her country?<br>If yes, identify any harm or mistreatment feared, and identify all relevant entit(ies).<br><b>Harm: (1) death; (2) death</b><br><b>Entit(ies): New Generation cartel; (2) neighbor Hector</b>                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                          |              | <b>Yes</b> <input checked="" type="checkbox"/><br><br><b>No</b> <input type="checkbox"/> |
| <b>B. Credibility</b> (Select the appropriate box and if testimony was partially credible or not credible, then: (1) identify the credibility factor and explain the evidence to support it, (2) provide the applicant's explanation, and (3) address if the explanation is reasonable for each factor. After analyzing all relevant credibility factors, consider them in the totality of the circumstances.)                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                          |              |                                                                                          |
| <b>Applicant's testimony was credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was consistent, detailed, and plausible. Therefore, it is found credible. (Check box and move to Section C. and/or D.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                          |              | <input checked="" type="checkbox"/>                                                      |
| <b>Applicant's testimony was partially credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was found partially credible. The applicant's testimony was found credible regarding the relevant facts that are sufficient to establish a credible fear. (Check box, explain, and move to Section C. and/or D.)                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                          |              | <input type="checkbox"/>                                                                 |
| <b>Applicant's testimony was not credible:</b> Considering the identified credibility issues, the absence of reasonable explanations for those issues, and taking into consideration the applicant's individual circumstances, the applicant's testimony is found not credible under the totality of the circumstances and all relevant factors. (Check box, explain, STOP, and complete Form I-870.)                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                          |              | <input type="checkbox"/>                                                                 |
| <b>C. Persecution</b> (If yes to C.1. or C.2., complete C.3. If no to C.1. and C.2., complete C.3.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                          |              |                                                                                          |
| 1.a. <u>Past Persecution:</u> There is a <b>significant possibility</b> the applicant can establish in a full hearing that: <ul style="list-style-type: none"> <li>The harm experienced was sufficiently serious to amount to persecution;</li> <li>The entity that harmed the applicant was motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion; <b>and</b></li> <li>The entity that harmed the applicant was an agent of the government or an entity that the government was unable or unwilling to control.</li> </ul> <b>AND</b>                                                                                                                  |                                                                                                                                          |              | <b>Yes</b> <input type="checkbox"/><br><br><b>No</b> <input type="checkbox"/>            |
| 1.b. There is no evidence so substantial that the presumption of well-founded fear can be rebutted.<br><br><i>or</i><br><br><b>If the presumption of well-founded fear has been rebutted,</b> there is a <b>significant possibility</b> that asylum could be granted based on: (1) the severity of the past persecution; or (2) a reasonable possibility of other serious harm.                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                          |              |                                                                                          |
| 2. <u>Future Persecution:</u> There is a <b>significant possibility</b> that the applicant can establish in a full hearing that: <ul style="list-style-type: none"> <li>The applicant fears harm that is sufficiently serious to amount to persecution;</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                          |              |                                                                                          |

## CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>The applicant               <ul style="list-style-type: none"> <li>1) possesses a protected characteristic,</li> <li>2) of which the feared entity is or could become <u>aware</u> or the feared entity believes that the applicant possess a protected characteristic,</li> <li>3) the feared entity has the <u>capability</u> to persecute the applicant,</li> <li>4) the feared entity has the <u>inclination</u> to persecute the applicant, OR there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of a protected ground;</li> </ul> </li> <li>The entity would be motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion;</li> <li>The entity that would harm the applicant would be an agent of the government or an entity that the government would be unable or unwilling to control; <b>and</b></li> <li>Under all the circumstances, it would not be reasonable for the applicant to relocate within the applicant's country to avoid future persecution.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                         | Yes <input type="checkbox"/><br><br>No <input type="checkbox"/>            |
| <b>3. Written Analysis:</b><br><br><b>Race</b> <input type="checkbox"/> <b>Religion</b> <input type="checkbox"/> <b>Nationality</b> <input type="checkbox"/> <b>Membership in a Particular Social Group</b> <input type="checkbox"/> <b>Political Opinion</b> <input type="checkbox"/><br><br><i>If credible fear of persecution established, identify the protected ground and specify:</i><br><br><i>As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                            |
| <b>D. Torture</b> <i>(Make a selection in D.1. and, as needed, complete D.2.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                            |
| <b>D.1.</b> There is a <b>significant possibility</b> the applicant can establish in a full hearing that: <ul style="list-style-type: none"> <li>The feared harm would be specifically intended to inflict severe pain or suffering on the applicant;</li> <li>The feared harm would constitute severe physical or mental pain or suffering;</li> <li>The feared harm would be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity;</li> <li>The applicant would be in the offender's custody or physical control; <b>and</b></li> <li>The harm would not arise only from or be inherent in or incidental to lawful sanctions.</li> </ul> <p>In making this determination, the following evidence must be considered:</p> <ul style="list-style-type: none"> <li>Evidence of past torture inflicted upon the applicant;</li> <li>Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;</li> <li>Evidence of gross, flagrant or mass violations of human rights within the country of removal; and other relevant information regarding conditions in the country of removal.</li> </ul> <p>If the applicant has demonstrated that there is a <b>significant possibility</b> of establishing past torture <u>AND</u> there are no changes in circumstances so substantial such that the applicant does not have a credible fear of torture, the applicant will be found to have established a credible fear of torture.</p> | Yes <input checked="" type="checkbox"/><br><br>No <input type="checkbox"/> |
| <b>D.2. Written Analysis:</b> <i>As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.</i><br><b>(1) Consent/ Acquiescence:</b> The applicant has seen the police patrol cars drive past New Generation cartel members who are beating men. The applicant's friend attempted to report his daughter's kidnapping, and while the police officer began to take a report, he stopped after the applicant's friend stated he thought New Generation was responsible. The applicant has heard from members of his community that the police turn people over to the New Generation cartel, and has seen people be arrested by the police and end up dead in the field the New Generation uses for its murders.<br><br><b>[(2) is not analyzed because the determination is already positive for claim (1)]</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                            |



## CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------------------------------------------|
| <b>A</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>COUNTRY:</b> <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px;"></span> | <b>APSO:</b> | <b>DATE:</b>                                                                             |
| <ul style="list-style-type: none"> <li>If there is a significant possibility of establishing eligibility for asylum or withholding under 241(b)(3), complete A., B., and C only.</li> <li>If there is a significant possibility of establishing eligibility for protection under the Convention Against Torture, complete A., B., and D only.</li> <li>If there is not a significant possibility of establishing eligibility for asylum or withholding of removal under 241(b)(3) or for withholding or deferral of removal under the CAT pursuant to 8 CFR 208.16(c) or 208.17, complete Sections A., B., C., and D. unless the claim fails in Section A (Harm) or Section B. (Credibility), in which case, stop and complete Form I-870.</li> </ul> |                                                                                                                   |              |                                                                                          |
| <b>A. Harm</b> (If yes to A.1. and/or A.2., move to Part B. If no to A.1. and A.2., STOP, and complete Form I-870.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                   |              |                                                                                          |
| 1. Has the applicant testified that he or she has experienced <u>past</u> harm in his or her country?<br><i>If yes, identify any past harm or mistreatment suffered, and identify all relevant entit(ies).</i><br><b>Harm: (1) beatings, death threats; (2) insults</b><br><b>Entit(ies): (1) MS; (2) classmates</b>                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                   |              | <b>Yes</b> <input checked="" type="checkbox"/><br><br><b>No</b> <input type="checkbox"/> |
| 2. Has the applicant testified that he or she fears <u>future</u> harm if returned to his or her country?<br><i>If yes, identify any harm or mistreatment feared, and identify all relevant entit(ies).</i><br><b>Harm: (1) death; (2) inability to secure employment</b><br><b>Entit(ies): (1) MS; (2) potential employers</b>                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                   |              | <b>Yes</b> <input checked="" type="checkbox"/><br><br><b>No</b> <input type="checkbox"/> |
| <b>B. Credibility</b> (Select the appropriate box and if testimony was partially credible or not credible, then: (1) identify the credibility factor and explain the evidence to support it, (2) provide the applicant's explanation, and (3) address if the explanation is reasonable for each factor. After analyzing all relevant credibility factors, consider them in the totality of the circumstances.)                                                                                                                                                                                                                                                                                                                                        |                                                                                                                   |              |                                                                                          |
| <b>Applicant's testimony was credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was consistent, detailed, and plausible. Therefore, it is found credible. (Check box and move to Section C. and/or D.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                   |              | <input checked="" type="checkbox"/>                                                      |
| <b>Applicant's testimony was partially credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was found partially credible. The applicant's testimony was found credible regarding the relevant facts that are sufficient to establish a credible fear. (Check box, explain, and move to Section C. and/or D.)                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                   |              | <input type="checkbox"/>                                                                 |
| <b>Applicant's testimony was not credible:</b> Considering the identified credibility issues, the absence of reasonable explanations for those issues, and taking into consideration the applicant's individual circumstances, the applicant's testimony is found not credible under the totality of the circumstances and all relevant factors. (Check box, explain, STOP, and complete Form I-870.)                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                   |              | <input type="checkbox"/>                                                                 |
| <b>C. Persecution</b> (If yes to C.1. or C.2., complete C.3. If no to C.1. and C.2., complete C.3.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                   |              |                                                                                          |
| 1.a. <u>Past Persecution:</u> There is a <b>significant possibility</b> the applicant can establish in a full hearing that: <ul style="list-style-type: none"> <li>The harm experienced was sufficiently serious to amount to persecution;</li> <li>The entity that harmed the applicant was motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion; <b>and</b></li> <li>The entity that harmed the applicant was an agent of the government or an entity that the government was unable or unwilling to control.</li> </ul> <b>AND</b>                                                                                                                  |                                                                                                                   |              | <b>Yes</b> <input type="checkbox"/><br><br><b>No</b> <input checked="" type="checkbox"/> |
| 1.b. There is no evidence so substantial that the presumption of well-founded fear can be rebutted.<br><br><i>or</i><br><br><b>If the presumption of well-founded fear has been rebutted,</b> there is a <b>significant possibility</b> that asylum could be granted based on: (1) the severity of the past persecution; or (2) a reasonable possibility of other serious harm.                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                   |              |                                                                                          |
| 2. <u>Future Persecution:</u> There is a <b>significant possibility</b> that the applicant can establish in a full hearing that: <ul style="list-style-type: none"> <li>The applicant fears harm that is sufficiently serious to amount to persecution;</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                   |              |                                                                                          |

## CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>The applicant               <ul style="list-style-type: none"> <li>1) possesses a protected characteristic,</li> <li>2) of which the feared entity is or could become <u>aware</u> or the feared entity believes that the applicant possess a protected characteristic,</li> <li>3) the feared entity has the <u>capability</u> to persecute the applicant,</li> <li>4) the feared entity has the <u>inclination</u> to persecute the applicant, OR there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of a protected ground;</li> </ul> </li> <li>The entity would be motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion;</li> <li>The entity that would harm the applicant would be an agent of the government or an entity that the government would be unable or unwilling to control; <b>and</b></li> <li>Under all the circumstances, it would not be reasonable for the applicant to relocate within the applicant's country to avoid future persecution.</li> </ul> | Yes <input type="checkbox"/><br><br>No <input checked="" type="checkbox"/> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|

3. Written Analysis:

Race ☐   Religion ☐   Nationality ☐   Membership in a Particular Social Group ☐   Political Opinion ☐

*If credible fear of persecution established, identify the protected ground and specify:*

*As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

**(1) Nexus:**

**Past:**

The MS told the applicant they wanted him to join because he was “old enough now” and he could sell drugs for them outside his house, which was near a school. The applicant testified that most boys in his colonia are recruited to help the gang when they are around his age, or younger. This indicates that the MS targeted him because they wanted to grow their ranks, not because of any protected ground.

**Future:**

The applicant fears the MS in the future because he will refuse to join and because he reported the gang members to the police. Even after the applicant reported them, however, the threats focused on what they would do if the applicant did not join them, rather than on the report. This indicates that the ongoing motive of the MS is to force the applicant to join the gang. This supports that the MS will target him to join their ranks or to punish him for his refusal to join, and not on account of any protected ground.

**(2) Harm:**

**Past:**

The applicant was called an “indio” by his classmates in mocking tones. Even considered cumulatively, and accounting for the applicant's age at the time, this mistreatment is insufficient to establish serious harm.

**Future:**

The applicant fears he will be unable to find a job in a factory/in the city because he is indigenous. However, he was able to work in the fields and support himself. This is insufficient to show severe economic deprivation.

**D. Torture** *(Make a selection in D.1. and, as needed, complete D.2.)*

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <p><b>D.1.</b> There is a <b>significant possibility</b> the applicant can establish in a full hearing that:</p> <ul style="list-style-type: none"> <li>The feared harm would be specifically intended to inflict severe pain or suffering on the applicant;</li> <li>The feared harm would constitute severe physical or mental pain or suffering;</li> <li>The feared harm would be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity;</li> <li>The applicant would be in the offender's custody or physical control; <b>and</b></li> <li>The harm would not arise only from or be inherent in or incidental to lawful sanctions.</li> </ul> | Yes <input type="checkbox"/><br><br>No <input checked="" type="checkbox"/> |
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## CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

In making this determination, the following evidence must be considered:

- Evidence of past torture inflicted upon the applicant;
- Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;
- Evidence of gross, flagrant or mass violations of human rights within the country of removal; and other relevant information regarding conditions in the country of removal.

If the applicant has demonstrated that there is a **significant possibility** of establishing past torture AND there are no changes in circumstances so substantial such that the applicant does not have a credible fear of torture, the applicant will be found to have established a credible fear of torture.

**D.2. Written Analysis:** *As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

**(1) State Action:**

With respect to his gang-related fear, the applicant has not been harmed or threatened by a public official and does not fear any public official. He believes the police will allow the MS to kill him because they did not arrest anyone after he reported. However, he further testified that the police asked for more information about the identity of the MS members and he was unable to identify them. The inability of public officials to bring the perpetrators to justice, without more, is insufficient to show consent or acquiescence. He also believes that the police are corrupt because he has heard of friends paying bribes to get out of traffic tickets. Although this may indicate some corruption, it is insufficient to establish consent or acquiescence to severe pain or suffering. When asked, the applicant was unable to provide any further specific and persuasive facts to support his belief that the police will consent or acquiesce to his severe pain or suffering by the MS.

**(2) Intentional Infliction:**

With respect to his future fear related to his ethnicity, the applicant only fears that he will be unable to get a job other than agricultural work. There is no indication that any potential employers specifically intend to inflict severe mental or physical pain or suffering on him.

**CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS**  
(b)(6)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                          |              |                                                                                          |
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| <b>A</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>COUNTRY:</b> <span style="border: 1px solid black; display: inline-block; width: 50px; height: 20px; vertical-align: middle;"></span> | <b>APSO:</b> | <b>DATE:</b>                                                                             |
| <ul style="list-style-type: none"> <li>If there is a significant possibility of establishing eligibility for asylum or withholding under 241(b)(3), complete A., B., and C only.</li> <li>If there is a significant possibility of establishing eligibility for protection under the Convention Against Torture, complete A., B., and D only.</li> <li>If there is not a significant possibility of establishing eligibility for asylum or withholding of removal under 241(b)(3) or for withholding or deferral of removal under the CAT pursuant to 8 CFR 208.16(c) or 208.17, complete Sections A., B., C., and D. unless the claim fails in Section A (Harm) or Section B. (Credibility), in which case, stop and complete Form I-870.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                          |              |                                                                                          |
| <b>A. Harm</b> (If yes to A.1. and/or A.2., move to Part B. If no to A.1. and A.2., STOP, and complete Form I-870.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                          |              |                                                                                          |
| 1. Has the applicant testified that he or she has experienced <u>past</u> harm in his or her country?<br><i>If yes, identify any past harm or mistreatment suffered, and identify all relevant entit(ies).</i><br><b>Harm: beatings with batons</b><br><b>Entit(ies): Badal Party members</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                          |              | <b>Yes</b> <input checked="" type="checkbox"/><br><br><b>No</b> <input type="checkbox"/> |
| 2. Has the applicant testified that he or she fears <u>future</u> harm if returned to his or her country?<br><i>If yes, identify any harm or mistreatment feared, and identify all relevant entit(ies).</i><br><b>Harm: (1) death; (2) false accusations</b><br><b>Entit(ies): (1) Badal Party; (2) Punjabi police</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                          |              | <b>Yes</b> <input checked="" type="checkbox"/><br><br><b>No</b> <input type="checkbox"/> |
| <b>B. Credibility</b> (Select the appropriate box and if testimony was partially credible or not credible, then: (1) identify the credibility factor and explain the evidence to support it, (2) provide the applicant's explanation, and (3) address if the explanation is reasonable for each factor. After analyzing all relevant credibility factors, consider them in the totality of the circumstances.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                          |              |                                                                                          |
| <b>Applicant's testimony was credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was consistent, detailed, and plausible. Therefore, it is found credible. (Check box and move to Section C. and/or D.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                          |              | <input type="checkbox"/>                                                                 |
| <b>Applicant's testimony was partially credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was found partially credible. The applicant's testimony was found credible regarding the relevant facts that are sufficient to establish a credible fear. (Check box, explain, and move to Section C. and/or D.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                          |              | <input type="checkbox"/>                                                                 |
| <b>Applicant's testimony was not credible:</b> Considering the identified credibility issues, the absence of reasonable explanations for those issues, and taking into consideration the applicant's individual circumstances, the applicant's testimony is found not credible under the totality of the circumstances and all relevant factors. (Check box, explain, STOP, and complete Form I-870.)<br><b>The applicant's testimony was not credible under the totality of the circumstances.</b><br><br><b>The applicant's testimony lacked detail.</b> He testified that he became a worker for the Mann party in 2015 and worked for the party every weekend after becoming a worker. When asked what activities he participated in as a worker, he said he helped with camps and hung posters. When asked what he would do at the camps, he indicated that he "just helped." When asked what the purpose of the camps was, he did not provide any information other than that they helped poor people. When asked for more information about the camps, the way they helped poor people, and his role, he said the camps "did good things." When asked whether he could provide any additional information about the camps or his work there, the applicant indicated "that was it." When asked why he could not provide any more detail, he said he was not a member of the party, only a worker. When asked what the difference between a member and a worker was, the applicant said he did not know. This is not a reasonable explanation because it does not explain why, as a worker at these camps, he could not provide details about the camps, his role, or the difference between members or workers. Considering that the applicant claims to have been a worker for the party for more than 1.5 years, and to have participated extensively during this time period, and was asked numerous, specific questions in order to elicit detail, he was not able to reasonably explain his lack of detail.<br><br><b>The applicant's testimony was inconsistent with his sworn statement with CBP as to the identity of his attackers.</b> The applicant testified before the APSO that he had been harmed by masked men who demanded |                                                                                                                                          |              | <input checked="" type="checkbox"/>                                                      |

## CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| <p>he join their party. When asked how he knew what party they wanted him to join, the applicant testified the Badal party because they demanded he join the Badal party and he saw the party logo on their motorbike. When asked by CBP who the masked men were, the applicant said he did not know. When presented with this inconsistency as to whether or not he knew the identity of his attackers at the time he was asked to join, the applicant testified he had not told CBP he didn't know who the men were, only that they wore masks. When presented with the sworn statement indicating he was asked what group these men belonged to, to which the applicant responded he did not know, the applicant then explained he had been nervous at his CBP interview. While nervousness may explain some minor inconsistencies (such as the fact the applicant told CBP the men beat him with hockey sticks, and testified before the APSO the men beat him with batons), the applicant's testimony before CBP is otherwise detailed, and he indicated that his purpose in coming to the United States was to seek asylum because of his fear of these men. In addition, the applicant was previously asked whether CBP asked him questions about his claim prior to the credible fear interview and he confirmed that he responded truthfully to those questions and his responses were read back to him in his native language. The identity of these men is relevant to their motivation to harm him, his explanation of why he could not relocate within India and why he could not report to the police. Therefore, nervousness is not a reasonable explanation for such a significant inconsistency.</p> <p>The applicant only fears harm from the Badal Party members and the police, which is related to his fear of harm by the Badal party. Given the totality of the circumstances, including the applicant's sophistication, the extent and nature of the inconsistencies, and lack of detail in comparison with the record as a whole, the applicant's testimony about his claim is not credible because he did not provide reasonable explanations to address the inconsistencies and lack of detail.</p> |                                                                        |
| <p><b>C. Persecution</b> (If yes to C.1. or C.2., complete C.3. If no to C.1. and C.2., complete C.3.)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                        |
| <p>1.a. <u>Past Persecution</u>: There is a <b>significant possibility</b> the applicant can establish in a full hearing that:</p> <ul style="list-style-type: none"> <li>• The harm experienced was sufficiently serious to amount to persecution;</li> <li>• The entity that harmed the applicant was motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion; <i>and</i></li> <li>• The entity that harmed the applicant was an agent of the government or an entity that the government was unable or unwilling to control.</li> </ul> <p><b>AND</b></p> <p>1.b. There is no evidence so substantial that the presumption of well-founded fear can be rebutted.</p> <p><i>or</i></p> <p><b>If the presumption of well-founded fear has been rebutted</b>, there is a <b>significant possibility</b> that asylum could be granted based on: (1) the severity of the past persecution; or (2) a reasonable possibility of other serious harm.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>2. <u>Future Persecution</u>: There is a <b>significant possibility</b> that the applicant can establish in a full hearing that:</p> <ul style="list-style-type: none"> <li>• The applicant fears harm that is sufficiently serious to amount to persecution;</li> <li>• The applicant             <ol style="list-style-type: none"> <li>1) possesses a protected characteristic,</li> <li>2) of which the feared entity is or could become <u>aware</u> or the feared entity believes that the applicant possess a protected characteristic,</li> <li>3) the feared entity has the <u>capability</u> to persecute the applicant,</li> <li>4) the feared entity has the <u>inclination</u> to persecute the applicant, OR there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of a protected ground;</li> </ol> </li> <li>• The entity would be motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion;</li> <li>• The entity that would harm the applicant would be an agent of the government or an entity that the government would be unable or unwilling to control; <i>and</i></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |

## CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>Under all the circumstances, it would not be reasonable for the applicant to relocate within the applicant's country to avoid future persecution.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                      |
| <p>3. <u>Written Analysis:</u></p> <p><b>Race</b> <input type="checkbox"/>   <b>Religion</b> <input type="checkbox"/>   <b>Nationality</b> <input type="checkbox"/>   <b>Membership in a Particular Social Group</b> <input type="checkbox"/>   <b>Political Opinion</b> <input type="checkbox"/></p> <p><i>If credible fear of persecution established, identify the protected ground and specify:</i></p> <p><i>As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                      |
| <p><b>D. Torture</b> <i>(Make a selection in D.1. and, as needed, complete D.2.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                      |
| <p><b>D.1.</b> There is a <b>significant possibility</b> the applicant can establish in a full hearing that:</p> <ul style="list-style-type: none"> <li>The feared harm would be specifically intended to inflict severe pain or suffering on the applicant;</li> <li>The feared harm would constitute severe physical or mental pain or suffering;</li> <li>The feared harm would be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity;</li> <li>The applicant would be in the offender's custody or physical control; <i>and</i></li> <li>The harm would not arise only from or be inherent in or incidental to lawful sanctions.</li> </ul> <p>In making this determination, the following evidence must be considered:</p> <ul style="list-style-type: none"> <li>Evidence of past torture inflicted upon the applicant;</li> <li>Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;</li> <li>Evidence of gross, flagrant or mass violations of human rights within the country of removal; and other relevant information regarding conditions in the country of removal.</li> </ul> <p>If the applicant has demonstrated that there is a <b>significant possibility</b> of establishing past torture <u>AND</u> there are no changes in circumstances so substantial such that the applicant does not have a credible fear of torture, the applicant will be found to have established a credible fear of torture.</p> | <p><b>Yes</b> <input type="checkbox"/></p> <p><b>No</b> <input type="checkbox"/></p> |
| <p><b>D.2. <u>Written Analysis:</u></b> <i>As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                      |

**Andre, Lisa S**

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**From:** Andre, Lisa S  
**Sent:** Wednesday, August 14, 2019 3:28 PM  
**To:** Perez, Ubaldo; RIVERA4, LUIS; LEMUS, MIGUEL A; SESSION, SHONE D; LEDEZMA, ARMANDO  
**Subject:** Interview Site for I870

Hi all –

For ZHN interviews, ZHN prefers that you write the the detention center with telephonic in parenthesis on the line for interview site on the I-870. For example: **KAY (telephonic)**. It is also okay to put the interview location that you put in Global if it makes it easier for you. Just please do not write ZLA.

For ZLA interviews, you may write ZLA telephonic.

Thanks!  
Lisa

**Aguilar, Kimberly M**

---

**From:** Aguilar, Kimberly M  
**Sent:** Wednesday, August 14, 2019 3:58 PM  
**To:** Alexander, Shannon; O'Malley, Robert L; Roberts, Rhonda J  
**Cc:** Papazian, Varsenik L; Pueschel, Tracy W; Klayman, Amy S  
**Subject:** Baez Post Training Agent Assignments

Good afternoon—

(b)(6)

Would you be able to arrange such a transfer to another office so that he can conduct telephonic interviews from his station or is it possible for him to transfer to ZAR and work at Folkston? For our part, we are willing and able to continue making the detail opportunity available at Krome through December.

Finally, although in our conversations with RAIO travel, we advised them that he would be here for the rest of his six month detail, Agent Baez only made travel plans to remain in Miami through the end of the two-week training period. I will contact RAIO Travel to let them know that his authorization will need to be amended.

Please let me know if you have any questions.

Regards,

---

Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
Phone: [REDACTED] (b)(6)

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**From:** Alexander, Shannon <shannon.alexander@uscis.dhs.gov>  
**Sent:** Tuesday, August 13, 2019 10:39 AM  
**To:** Roberts, Rhonda J <Rhonda.J.Roberts@uscis.dhs.gov>; Hussey, Jedidah M <Jedidah.M.Hussey@uscis.dhs.gov>;



Lafferty, John L <John.L.Lafferty@uscis.dhs.gov>; O'Malley, Robert L <robert.l.omalley@uscis.dhs.gov>; Caudill-Mirillo, Ashley B <Ashley.Caudill-Mirillo@uscis.dhs.gov>; Haertling, Peter G <Peter.G.Haertling@uscis.dhs.gov>; Daum, Robert L <Robert.L.Daum@uscis.dhs.gov>; Heinrich, Lorie R <Lorie.R.Heinrich@uscis.dhs.gov>; Gulati, Sonia <Sonia.Gulati@uscis.dhs.gov>; Lehman, Danielle E <Danielle.E.Lehman@uscis.dhs.gov>; Zeleke, Aster N <Aster.Zeleke@uscis.dhs.gov>; Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; Tyrell, Jody A <Jody-Ann.Tyrell@uscis.dhs.gov>; Radel, David M <David.M.Radel@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>; Raufer, Susan <Susan.Raufer@uscis.dhs.gov>; Boyle, Meghann W <Meghann.Boyle@uscis.dhs.gov>; Dhanjal, Manpreet S <Manpreet.S.Dhanjal@uscis.dhs.gov>; Mikesell, Hannah K <hannah.k.mikesell@uscis.dhs.gov>; Bondy, Timothy <Timothy.Bondy@uscis.dhs.gov>; Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>; Gadson, Irvin C <Irvin.C.Gadson@uscis.dhs.gov>; Isaacson, Mollie <Mollie.Isaacson@uscis.dhs.gov>; Hong, Marianne X <Marianne.X.Hong@uscis.dhs.gov>; Madsen, Kenneth S <Kenneth.S.Madsen@uscis.dhs.gov>; Rellis, Jennifer L <Jennifer.L.Rellis@uscis.dhs.gov>; Flanagan, Lisa M <Lisa.M.Flanagan@uscis.dhs.gov>; Kruszka, Robert F <Robert.F.Kruszka@uscis.dhs.gov>; Bardini, Emilia M <Emilia.M.Bardini@uscis.dhs.gov>; Hemming, Bryan D <Bryan.D.Hemming@uscis.dhs.gov>; Douglas, Audrey M <Audrey.M.Douglas@uscis.dhs.gov>; Motolenich Torres, Catherine <catherine.motolenichtorres@uscis.dhs.gov>; Timothee, Fritz G <Fritz.G.Timothee@uscis.dhs.gov>; Brodrecht, Anna M <anna.m.brodrecht@uscis.dhs.gov>; Carter, Lovely L <lovely.l.carter@uscis.dhs.gov>; Sellung, Ashlee <ashlee.sellung@uscis.dhs.gov>; Fairbank, Christina <Christina.Fairbank@uscis.dhs.gov>; Berger, Jack S III <Jack.S.Berger@uscis.dhs.gov>; Robinson, Joi L <Joi.L.Robinson@uscis.dhs.gov>; Jackson, Yolanda <Yolanda.Jackson@uscis.dhs.gov>; Powless, Crystal Y <Crystal.Y.Powless@uscis.dhs.gov>

**Subject:** CF for USBP HQ Call and Post Training Agent Assignments

Good Morning,

As the second week of on the job training with the BP agents is underway, we have two requests.

First, we would like to set up regular calls between HQ and the SAOs and TOs working with USBP in your office. We anticipate that the first call will be Tuesday, August 20<sup>th</sup>.

Second, RAIO Travel will soon begin to work with the agents for the next phase of their travel. After consulting with each agent and considering their schedules and pre-approved leave, you may assign agents to return to their home sectors, interview at detention centers or remain in your offices. Please inform us and RAIO Travel of your plans for each agent assigned to your office so that all transitions are as smooth as possible.

Please send your SAO/TO POCs, a general time that works for you on Tuesday and agent assignment plans to me, Bob and Rhonda by **COB tomorrow Wednesday, August 14<sup>th</sup>**. The agent assignment plans should also be sent to RAIO Travel.

Thank you.

Best,

**Shannon Alexander**

Asylum Officer

Asylum Training Division

DHS/USCIS/RAIO

Cube:

Cell:  (b)(6)

**Aguilar, Kimberly M**

---

**From:** Aguilar, Kimberly M  
**Sent:** Thursday, August 15, 2019 8:49 AM  
**To:** Alexander, Shannon; O'Malley, Robert L; Roberts, Rhonda J  
**Cc:** Papazian, Varsenik L; Pueschel, Tracy W; Klayman, Amy S; McPherson, Yaniece A; Garrett, Natalie M; Talamantes, Eudelia A  
**Subject:** FW: CF for USBP HQ Call and Post Training Agent Assignments

Good morning All—

I realized I did not include the information for the SAOs and TOs working with the agents at the ZMI in my message yesterday on the agents' assignment plan. Each will be working at one of the two detention facilities in our local commuting area. The SAOs and TO are:

- SAO Yaniece McPherson, Agent Baez - Krome;
- Acting SAO Natalie Garrett, Agent Vasquez - Broward Transitional Center (BTC);
- TO Eudelia Talamantes.

Please include Section Chief Amy Klayman and me on the invitation as well.

Tuesday afternoon is the mandatory training time for ZMI. As such, Tuesday morning is the best time for a call.

Please let me know if you need any additional information.

---

Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
Phone: [REDACTED] (b)(6)

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<Jennifer.L.Rellis@uscis.dhs.gov>; Flanagan, Lisa M <Lisa.M.Flanagan@uscis.dhs.gov>; Kruszka, Robert F <Robert.F.Kruszka@uscis.dhs.gov>; Bardini, Emilia M <Emilia.M.Bardini@uscis.dhs.gov>; Hemming, Bryan D <Bryan.D.Hemming@uscis.dhs.gov>; Douglas, Audrey M <Audrey.M.Douglas@uscis.dhs.gov>; Motolenich Torres, Catherine <catherine.motolenichtorres@uscis.dhs.gov>; Timothee, Fritz G <Fritz.G.Timothee@uscis.dhs.gov>; Brodrecht, Anna M <anna.m.brodrecht@uscis.dhs.gov>; Carter, Lovely L <lovely.l.carter@uscis.dhs.gov>; Sellung, Ashlee <ashlee.sellung@uscis.dhs.gov>; Fairbank, Christina <Christina.Fairbank@uscis.dhs.gov>; Berger, Jack S III <Jack.S.Berger@uscis.dhs.gov>; Robinson, Joi L <Joi.L.Robinson@uscis.dhs.gov>; Jackson, Yolanda <Yolanda.Jackson@uscis.dhs.gov>; Powless, Crystal Y <Crystal.Y.Powless@uscis.dhs.gov>

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Please send your SAO/TO POCs, a general time that works for you on Tuesday and agent assignment plans to me, Bob and Rhonda by **COB tomorrow Wednesday, August 14<sup>th</sup>**. The agent assignment plans should also be sent to RAIO Travel.

Thank you.

Best,

**Shannon Alexander**  
Asylum Officer  
Asylum Training Division  
DHS/USCIS/RAIO  
Cube: (202) 272-8077  
Cell: (202) 531-7270

Andre, Lisa S

---

**From:** Andre, Lisa S  
**Sent:** Thursday, August 15, 2019 1:12 PM  
**To:** #ZLA ALL SECTION CHIEFS  
**Subject:** RE: BP Training Schedule

Here is the updated schedule for everyone's awareness. Happy moving day! ☺

**From:** Andre, Lisa S  
**Sent:** Tuesday, August 13, 2019 12:37 PM  
**To:** #ZLA ALL SECTION CHIEFS <#ZLAALLSECTIONCHIEFS@uscis.dhs.gov>  
**Subject:** BP Training Schedule

All – Here is the schedule that I have created for the BP agents for the remainder of their detail with us (after the move). It is exceptionally generous in terms of ramp up but I honestly think giving them more work sooner will just cause more confusion, especially with their travel back and forth to their home offices. I just wanted to send this out before the HQ call.

Thanks,  
Lisa

#### Training Schedule / Ramp Up

**Wednesday, August 21** – Miguel, Luis, Shone and Ubaldo arrive at 1:00 PM – get PIVs programed, set-up new office (Travel day for Armando).

**Thursday, August 22** - Miguel and Ubaldo each independently interview one case. **Luis interviews two cases.** Shone gets an interview observation. Armando gets settled into new office; **observes APSO interview and completes write-up.**

**Friday, August 23** - Shone independently interviews one case. **Ubaldo and Miguel interview two cases.** Armando gets an interview observation. **Luis will use the morning to wrap up cases and then travel back at noon.**

**Monday, August 26** – Shone and Armando independently interview one case. **Ubaldo and Miguel interview two cases.** Luis will get day at home office to set-up and review materials.

**Tuesday, August 27** –Armando interviews one case. **Ubaldo, Miguel and Shone interview two cases.** Luis will complete **two cases** at home office. Cases completed after 2 PM must be submitted to temp SAO

**Wednesday, August 28** – Armando interviews one case (remainder of day for corrections). **Ubaldo, Miguel and Shone will use the morning to wrap up cases and then travel back at noon.** Luis will complete **two cases** at home office. Lisa on A/L – cases to be submitted to temp SAO

**Thursday, August 29** – No agents will report to ZLA (Travel day for Armando). Ubaldo and Shone will get day at home office to set-up and review materials. Luis will complete **two cases** at home office. **(Miguel on A/L)** Lisa on A/L – cases to be submitted to temp SAO

**Friday, August 30** – Armando will get day at home office to set-up and review materials. Ubaldo, Shone and Luis will complete **one case** each at home office (remainder of day for corrections). **(Miguel on A/L)** Lisa on A/L – cases to be

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submitted to temp SAO

**Tuesday, September 3** – Armando will interview one case. Miguel, Luis, Ubaldo and Shone will interview **two cases**. Lisa on A/L – cases to be submitted to temp SAO

**Wednesday, September 4** – All officers will interview **two cases**.

**Thursday, September 5** – All officers will interview **two cases**.

**Friday, September 6** – All officers will interview **one case** each and use additional time to wrap up corrections for the week.

**Monday, September 9 – December 20:** All officers will be assigned 2 cases each. SAO will determine when each officer can be assigned additional cases based on individual performance with the goal of assigning 4 cases/day to each officer. Friday caseloads will be reduced by one case as needed in order to allow time for corrections by the interviewing officer.

## Alexander, Shannon

---

**From:** Alexander, Shannon  
**Sent:** Thursday, August 15, 2019 5:04 PM  
**To:** Hussey, Jedidah M; Haertling, Peter G; Daum, Robert L; Heinrich, Lorie R; Gulati, Sonia; Lehman, Danielle E; Zeleke, Aster N; Papazian, Varsenik L; Klayman, Amy S; Tyrell, Jody A; Radel, David M; Pueschel, Tracy W; Raufer, Susan; Stefanova, Desislava I; Lewis, Victoria E; Baj, Ewa; Boyle, Meghann W; Dhanjal, Manpreet S; Mikesell, Hannah K; Bondy, Timothy; Aguilar, Kimberly M; McPherson, Yaniece A; Garrett, Natalie M; Talamantes, Eudelia A; Gadson, Irvin C; Isaacson, Mollie; Hong, Marianne X; Andre, Lisa S; Minnick, Frank R; Kim, Alejandra; Lynn, Mallory L; Madsen, Kenneth S; Rellis, Jennifer L; Powless, Crystal Y; Hunt, Margo M; Osuji, Kizito; Flanagan, Lisa M; Kruska, Robert F; Bardini, Emilia M; Cleary, Heather M; Hemming, Bryan D; Douglas, Audrey M; Motolenich Torres, Catherine; Timothee, Fritz G; Brodrecht, Anna M; Carter, Lovely L; Fairbank, Christina; Berger, Jack S III; Robinson, Joi L; Jackson, Yolanda; Boss, Juliet M; Mireles, Charity J; Brodrecht, Anna M  
**Cc:** Lafferty, John L; Caudill-Mirillo, Ashley B; Roberts, Rhonda J; O'Malley, Robert L; RAIO-CBPFearTRN  
**Subject:** USBP OJT Week 2 Updates  
**Attachments:** CBP USCIS MOA.pdf

Good Evening All,

As week 2 of On the Job Training is coming to a close, we have a few things we would like to share and reiterate:

- ★ Per the (attached) MOA, USBP may request information regarding the agents' performance. Accordingly, we are finalizing an evaluation form and will send it to you next week.
- ★ Please track the hours that each agent is working each day for the duration of the pilot. Tracked hours should include comp time. A friendly reminder – agents cannot work more than 10 hours of comp time per pay period without USBP supervisor approval. Please keep us informed of any requests for more than 10 hours of comp time
- ★ We understand that some agents may be apprehensive about the time it is taking to process their travel vouchers. As they are invitational users of our Concur, USCISTravelAdmin has to review and approve their travel requests. The requests are then sent back to RAIO Travel for additional processing. These extra steps are adding additional time. Please address any travel issues or concerns to the specific RAIO Travel mailbox created for USBP: [RAIO-CBPFearTRN](#)
- ★ As previously mentioned, cohorts 2 and 3 have different tech set ups. Cohort 2 is using CIS imaged laptops and Cohort 3 are on BP imaged laptops. The current plan is to transition Cohort 2 to BP imaged laptops as well. When this occurs, neither cohort will have access to your share drives. If you planned to rely on your share drives for future processing, please make alternate

arrangements.

★ Calls with your POCs will begin next week and occur every two weeks.

If I have missed anyone in this correspondence, please let me know so I can add them to the email list.

Again, thank you all very much for the time and effort you have put into this training.

Best,

**Shannon Alexander**

Asylum Officer

Asylum Training Division

DHS/USCIS/RAIO

Cube:

Cell:  (b)(6)

**MEMORANDUM OF AGREEMENT BETWEEN  
U.S. CUSTOMS AND BORDER PROTECTION (CBP)  
AND  
U.S. CITIZENSHIP & IMMIGRATION SERVICES (USCIS)**

1. **PARTIES.** The parties to this Agreement are U.S. Customs and Border Protection (CBP) and U.S. Citizenship & Immigration Services (USCIS).
2. **AUTHORITY.** This Agreement is entered into by USCIS and CBP pursuant to Part IV of Department of Homeland Security Delegation 0150.1 (June 5, 2003), as set forth in Department of Homeland Security Delegation 2019-001, "Delegation to the Commissioner of U.S. Customs and Border Protection Regarding Credible Fear Determinations."
3. **PURPOSE.** The purpose of this Memorandum of Agreement (MOA) is to set forth terms under which USCIS and CBP can foster collaboration through a Task Force (TF) assignment for the purposes of training and hearing credible fear (CF) claims and making determinations through the interview process. This pilot program is named "Credible Fear for USBP."

Under this agreement, USCIS will benefit by being able to adjudicate the backlog of asylum cases. Overall, this partnership will increase efficiency and effectiveness for DHS.

4. **RESPONSIBILITIES.** The following section details both USCIS and CBP responsibilities for the duration of this MOA.
  - A. USCIS shall:
    - i. Assign contacts at Asylum Headquarters, including other designees, to coordinate Credible Fear for USBP.
    - ii. Pay to CBP the actual costs of Border Patrol Agents (BPAs) and Supervisory Border Patrol Agents (SBPAs) performing credible fear interviews and work related to those interviews.
    - iii. Provide BPAs and SBPAs with work assignments, laptop computers, and other reasonable equipment to complete assigned tasks.
    - iv. Assign, in coordination with CBP, the weekly schedules of the designated BPAs and SBPAs for their pilot program responsibilities. USCIS will coordinate the BPA and SBPA schedules for required CBP trainings and qualifications as necessary.
    - v. Coordinate any physical or electronic access requirements and appropriate information technology support.
    - vi. Upon request, provide feedback to CBP regarding the BPAs' and



- SBPAs' performance within 30 days before the end of the pilot program. USCIS may request that CBP reassign BPAs and SBPAs who are not performing at an acceptable level of competence.
- vii. Fund all related travel for DHS/CBP pilot program responsibilities.
  - viii. Consult with CBP with respect to any assignment of FEPA overtime, i.e., regularly scheduled overtime in advance of the workweek, as necessary and in accordance with regulatory requirements for the period of time BPAs and SBPAs are performing work for USCIS. It is possible, but not expected, that BPAs and SBPAs will work more than their current BPAPRA schedule. USCIS shall fund all approved FEPA overtime for time spent performing credible fear interviews and work related to those interviews. No USCIS funds will be spent to fund any activities not directly related to credible fear interviews.
  - ix. Schedule BPAs for tours of duty consistent with their elected BPAPRA Levels and rates of pay, and comply with all provisions of BPAPRA regarding regularly-scheduled overtime and substitution of hours for absences during obligated overtime hours.
  - x. Consult with CBP with respect to any BPAPRA compensatory time being accrued by individual agents in performance of their TF duties, i.e., irregular overtime at the end of the BPA's or SBPA's shift. It is possible, but not expected, that BPAs and SBPAs will work more than their current BPAPRA schedule.

**B. CBP shall:**

- i. Identify up to 50 additional BPAs and SBPAs (60 total) to participate in CF for USBP training.
- ii. Process time and attendance records for personnel designated to participate in the TF assignment under this MOA.
- iii. Return the BPAs and SBPAs to their permanent CBP positions of record upon expiration of the TF assignment.
- iv. Ensure that BPAs and SBPAs are not exercising their law enforcement officer duties while on the TF assignment.
- v. CBP will activate the USCIS laptop on the CBP system.
- vi. Upon notice from USCIS, reassign BPAs or SBPAs who are not performing credible fear interviews at an acceptable level of competence.

**C. Designated SBPAs and BPAs during this TF assignment shall:**

- i. Receive CF for USBP training, conducted by USCIS, to satisfy the statutory definition of "asylum officer";
- ii. Use USCIS-contracted telephonic services for conducting interviews, and maintain records of use of telephonic interpreters;

- iii. Conduct non-adversarial CF interviews, eliciting all relevant and useful information related to the applicant's claimed fear of return to his/her home country;
- iv. Take notes that accurately reflect the applicant's testimony;
- v. Prepare a summary of the material facts stated by the applicant and review that summary with the applicant, providing the applicant with the opportunity to correct any errors;
- vi. Detect and report possible victims of trafficking;
- vii. Be prepared to work their BPAPRA schedules and any necessary additional hours, including the possibility of overtime on regular days off in various locations, as needed;
- viii. Document each CF determination in conformance with the applicable statutes, regulations, policies and USCIS procedures;
- ix. Update the USCIS case management system with appropriate findings;
- x. Coordinate with the designated USCIS Supervisory Asylum Officers (SAOs) on assignments for review and completion of all Asylum Officer (AO)-related CF work;
- xi. Handle time-sensitive tasks;
- xii. Maintain applicant confidentiality;
- xiii. Conduct all relevant security checks;
- xiv. Wear business attire (non-uniform) when conducting in-person CF interviews, depending upon the office;
- xv. Attend meetings and trainings as required by the USCIS field office;
- xvi. Prepare required documents to ensure legally sufficient determinations;
- xvii. Maintain USCIS equipment according to USCIS protocols;
- xviii. Take necessary steps to return USCIS equipment to USCIS when the equipment is no longer needed for completion of CF cases;
- xix. Maintain non-adversarial liaison with nongovernmental organizations and/or private sector stakeholders; and
- xx. Perform other duties as assigned by USCIS/Asylum Division, with the prior written approval of CBP.

## 5. POINTS OF CONTACT.

A. CBP/United States Border Patrol  
 Robert Danley  
 Acting Associate Chief  
 U.S. Border Patrol HQ  
 Operational Requirements Management Division  
 1300 Pennsylvania Ave, NW, Suite 6.SE  
 Washington, DC 20229

Phone: [REDACTED] (b)(6)  
ROBERT.DANLEY@cbp.dhs.gov

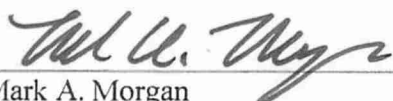
B. USCIS  
John Lafferty  
Chief  
Asylum Division  
US Citizenship and Immigration Services  
20 Massachusetts Ave, NW, 6<sup>th</sup> Floor  
Washington, DC 20529  
Phone: [REDACTED] (b)(6)  
John.L.Lafferty@uscis.dhs.gov

6. **OTHER PROVISIONS.** Nothing in this Agreement is intended to conflict with current law or regulation or the directives of the DHS. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect. This agreement is based on the availability of funds.
7. **EFFECTIVE DATE.** This agreement is effective upon signature by both Parties. The terms of this agreement shall apply to all cooperative activities between CBP and USCIS to facilitate the processing of credible fear claims under this MOA and any prior assignments of CBP personnel for these purposes shall be considered to be covered under the terms of this MOA, including but not limited to, any credible fear determinations made by a CBP officer prior to the date of the agreement.
8. **DURATION.** This MOA will remain in effect until the end of the pilot program or until terminated by the Parties. This agreement must be renewed through a signed extension after 180 days from the effective date. This agreement can be extended indefinitely in 180 day increments, or less thereafter.
9. **FUNDING.** This MOA does not obligate funds or create a financial obligation between the Parties. No provision of this MOA shall be interpreted to require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable law. All activities contemplated by this MOA are subject to availability of funds and other necessary resources to the Parties. An Interagency Agreement will be established between USCIS and CBP to obligate funds related to this MOA.
10. **MODIFICATION.** This agreement may be modified upon the written consent of both parties. This agreement may be reviewed at the request of either party to determine if any changes or amendments will be made or incorporated. Such changes

or amendments shall be signed by the original signatories of the agreement, their representatives, or their successors.

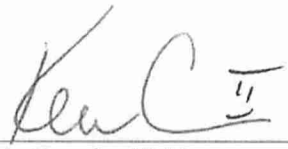
11. **TERMINATION.** Either party wishing to terminate this agreement may do so upon 30 days written notice.

12. **APPROVALS.**

  
\_\_\_\_\_  
Mark A. Morgan  
Acting Commissioner  
U.S. Customs and Border Protection  
Department of Homeland Security

Date

7/10/19

  
\_\_\_\_\_  
Ken Cuccinelli II  
Acting Director,  
U.S. Citizenship & Immigration  
Services  
Department of Homeland Security

Date

7/3/2019

**Andre, Lisa S**

---

**From:** Andre, Lisa S  
**Sent:** Friday, August 16, 2019 7:37 PM  
**To:** RIVERA4, LUIS; LEMUS, MIGUEL A; SESSION, SHONE D; LEDEZMA, ARMANDO; Perez, Ubaldo  
**Subject:** Sample Cred Case  
**Attachments:** Sample Cred - Notes.docx; Sample Cred- Checklist.docx

Hi all –

Attached is a sample credibility interview. As you can see, the applicant's testimony was increasingly inconsistent. The checklist only addresses 3 of the credibility points, which is sufficient to find the applicant not credible in the totality of the circumstances; but keep in mind that the inconsistency with CBP records could also be added to make the analysis even stronger.

I want to also note that if this was a credible applicant, you would want to ask more questions about each incident, particularly relating to her religion claim. However, if you are going positive on another claim or have enough to find the applicant not credible, you only need to briefly address other potential claims for the record.

Hope this is helpful!  
Lisa



**CREDIBLE FEAR INTERVIEW NOTES**

(b)(6)

[Empty rectangular box for interview notes]

(b)(6)

(b)(6)



(b)(6)

(b)(6)

(b)(6)

(b)(6)

(b)(6)

[Redacted]

**INTERVIEW CONCLUDED: 9:01 AM**

(b)(6)

# CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

(b)(6)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                               |                   |                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------|------------------------------------------------------------------------|
| A XXXXX                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | COUNTRY: <input type="text"/> | APSO: XXX, ZLA XX | DATE: XX/XX/XX                                                         |
| <ul style="list-style-type: none"> <li>If there is a significant possibility of establishing eligibility for asylum or withholding under 241(b)(3), complete A., B., and C only.</li> <li>If there is a significant possibility of establishing eligibility for protection under the Convention Against Torture, complete A., B., and D only.</li> <li>If there is not a significant possibility of establishing eligibility for asylum or withholding of removal under 241(b)(3) or for withholding or deferral of removal under the CAT pursuant to 8 CFR 208.16(c) or 208.17, complete Sections A., B., C., and D. unless the claim fails in Section A (Harm) or Section B. (Credibility), in which case, stop and complete Form I-870.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                               |                   |                                                                        |
| <b>A. Harm</b> (If yes to A.1. and/or A.2., move to Part B. If no to A.1. and A.2., STOP, and complete Form I-870.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                               |                   |                                                                        |
| 1. Has the applicant testified that he or she has experienced <u>past</u> harm in his or her country?<br><i>If yes, identify any past harm or mistreatment suffered, and identify all relevant entit(ies).</i><br><b>Harm:</b> beaten with metal stick by police; beaten with a baseball bat by uncle<br><b>Entit(ies):</b> police officers, mother, and uncle                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                               |                   | Yes <input checked="" type="checkbox"/><br>No <input type="checkbox"/> |
| 2. Has the applicant testified that he or she fears <u>future</u> harm if returned to his or her country?<br><i>If yes, identify any harm or mistreatment feared, and identify all relevant entit(ies).</i><br><b>Harm:</b> death<br><b>Entit(ies):</b> police officers, mother, and uncle                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                               |                   | Yes <input checked="" type="checkbox"/><br>No <input type="checkbox"/> |
| <b>B. Credibility</b> (Select the appropriate box. If testimony was credible and the overall determination is positive, check box B.1. and briefly explain what evidence supports this determination including addressing any credibility concerns and why in the totality of circumstances the applicant's testimony is credible despite these concerns. If testimony was credible but the overall determination is negative, check box B.1. and proceed to section C. If testimony was not credible, (1) check box B.2., (2) identify the credibility concern(s), (3) provide the applicant's explanation(s), and (4) address if the explanation is reasonable for each concern. After analyzing all relevant credibility factors, consider them in the totality of the circumstances.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                               |                   |                                                                        |
| <b>1. Applicant's testimony was credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was consistent, detailed, and plausible. Therefore, it is found credible. (Check box, explain only if overall decision is positive, and move to Section C. and/or D.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                               |                   | <input type="checkbox"/>                                               |
| <b>2. Applicant's testimony was not credible:</b> Considering the identified credibility concern(s), the absence of reasonable explanations for those concerns, and taking into consideration the applicant's individual circumstances, the applicant's testimony is found not credible under the totality of the circumstances and all relevant factors. (Check box, explain, STOP, and complete Form I-870.)<br><br>The applicant's testimony was not credible under the totality of the circumstances.<br><br>The applicant's testimony was internally inconsistent regarding how many times the police physically harmed the applicant. The applicant stated the police physically harmed him twice. Then the applicant said he was attacked by police officers three times but he was only harmed one time. Then the applicant said that the police harmed him three times. When asked to explain this inconsistency, the applicant stated that "They hurt me three times." This is not a reasonable explanation because it doesn't address or explain why the applicant said earlier that he was harmed twice and then once and then three times by the police officers. Additionally, physical harm was defined for the applicant as any harm or injury to his body. This inconsistency regarding how many times the applicant was harmed by the police is relevant to the applicant's claim because it calls into question whether the applicant experienced the harm by the feared persecutor that he is alleging.<br><br>The applicant's testimony was internally inconsistent regarding who harmed the applicant on March 21, 2019. The applicant stated the police physically harmed him twice on November 9, 2018 and March 21, 2019. Then the applicant said on March 21, 2019, he was attacked his grandmother. Then the applicant said that on March 21, 2019 he was attacked by "Just my mom and uncle." When asked to explain the inconsistency, the applicant responded "It was my mom and uncle that hurt me March 21, 2019. They are the ones that hurt me." This is not a reasonable explanation because it doesn't address or explain why the applicant said earlier that he was harmed on March 21, 2019, first by the police twice and then by his grandmother, and then by "just my mom and uncle." This inconsistency regarding who harmed the applicant on |                               |                   | <input checked="" type="checkbox"/>                                    |

## CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

March 21, 2019 is relevant to the applicant's claim because it calls into question whether the applicant experienced the harm by the feared persecutor that he is alleging.

Applicant was internally inconsistent in regards to his medical condition relating to the harm he experienced on March 21, 2019. The applicant testified at the beginning of the interview that he didn't have any medical conditions that required any medical care or attention by a doctor or nurse. Then the applicant testified that his uncle beat him with a baseball bat on March 21, 2019 and his leg was broken and he was still trying to recover from this injury. The applicant said that he had problems walking and needed pain medication for his injury. When asked to explain this inconsistency, the applicant answered "I had forgotten about the pain in my left foot." The applicant's response fails to provide a reasonable explanation for the applicant's inconsistency. It is reasonable that when asked if the applicant had any medical conditions that he would be able to provide a response, especially since the applicant is now alleging that the injury was directly related to the harm he experienced in Honduras. This inconsistency regarding the extent of his medical condition or injuries is relevant to his claim because it calls into question whether the harm that the applicant experienced in Honduras rises to the level of persecution or torture.

Given the totality of the circumstances, including the applicant's sophistication, the extent and nature of the inconsistencies, and lack of detail in comparison with the records as a whole, the applicant's testimony about his claim is not credible because he did not provide reasonable explanations to address the inconsistencies.

### C. Persecution (If yes to C.1. or C.2., complete C.3. If no to C.1. and C.2., complete C.3.)

1.a. Past Persecution: There is a **significant possibility** the applicant can establish in a full hearing that:

- The harm experienced was sufficiently serious to amount to persecution;
- The entity that harmed the applicant was motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion; **and**
- The entity that harmed the applicant was an agent of the government or an entity that the government was unable or unwilling to control.

**AND**

1.b. There is no evidence so substantial that the presumption of well-founded fear can be rebutted.

*or*

**If the presumption of well-founded fear has been rebutted**, there is a **significant possibility** that asylum could be granted based on: (1) the severity of the past persecution; or (2) a reasonable possibility of other serious harm.

Yes ☐

No ☐

2. Future Persecution: There is a **significant possibility** that the applicant can establish in a full hearing that:

- The applicant fears harm that is sufficiently serious to amount to persecution;
- The applicant
  - 1) possesses a protected characteristic,
  - 2) of which the feared entity is or could become aware or the feared entity believes that the applicant possess a protected characteristic,
  - 3) the feared entity has the capability to persecute the applicant,
  - 4) the feared entity has the inclination to persecute the applicant, OR there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of a protected ground;
- The entity would be motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion;
- The entity that would harm the applicant would be an agent of the government or an entity that the government would be unable or unwilling to control; **and**
- Under all the circumstances, it would not be reasonable for the applicant to relocate within the applicant's country to avoid future persecution.

Yes ☐

No ☐

3. Written Analysis:

Race ☐ Religion ☐ Nationality ☐ Membership in a Particular Social Group ☐ Political Opinion ☐



## CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS

*If credible fear of persecution established, identify the protected ground and specify:*

*As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

### **D. Torture** *(Make a selection in D.1. and, as needed, complete D.2.)*

**D.1.** There is a **significant possibility** the applicant can establish in a full hearing that:

- The feared harm would be specifically intended to inflict severe pain or suffering on the applicant;
- The feared harm would constitute severe physical or mental pain or suffering;
- The feared harm would be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity;
- The applicant would be in the offender's custody or physical control; **and**
- The harm would not arise only from or be inherent in or incidental to lawful sanctions.

In making this determination, the following evidence must be considered:

- Evidence of past torture inflicted upon the applicant;
- Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;
- Evidence of gross, flagrant or mass violations of human rights within the country of removal; and other relevant information regarding conditions in the country of removal.

If the applicant has demonstrated that there is a **significant possibility** of establishing past torture AND there are no changes in circumstances so substantial such that the applicant does not have a credible fear of torture, the applicant will be found to have established a credible fear of torture.

Yes ☐

No ☐

**D.2. Written Analysis:** *As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

**Klayman, Amy S**

---

**From:** Klayman, Amy S  
**Sent:** Monday, August 19, 2019 7:19 AM  
**To:** Garrett, Natalie M; McPherson, Yaniece A; Hanson, Greta E  
**Subject:** FW: USBP OJT Week 2 Updates  
**Attachments:** CBP USCIS MOA.pdf

Forwarding general updates on BP TDYS. Please note the section highlighted in yellow. If the BP agents are not yet signing in and out, please have them do so, starting immediately. Please make sure that you are aware of the hours that they are working and let me know if there are any issues.

We have a conference call with HQ this week, and I'll let you know if there are any more updates.

Thanks,

Amy

From: Alexander, Shannon <shannon.alexander@uscis.dhs.gov>  
Sent: Thursday, August 15, 2019 6:04 PM  
To: Hussey, Jedidah M <Jedidah.M.Hussey@uscis.dhs.gov>; Haertling, Peter G <Peter.G.Haertling@uscis.dhs.gov>; Daum, Robert L <Robert.L.Daum@uscis.dhs.gov>; Heinrich, Lorie R <Lorie.R.Heinrich@uscis.dhs.gov>; Gulati, Sonia <Sonia.Gulati@uscis.dhs.gov>; Lehman, Danielle E <Danielle.E.Lehman@uscis.dhs.gov>; Zeleke, Aster N <Aster.Zeleke@uscis.dhs.gov>; Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; Tyrell, Jody A <Jody-Ann.Tyrell@uscis.dhs.gov>; Radel, David M <David.M.Radel@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>; Raufer, Susan <Susan.Raufer@uscis.dhs.gov>; Stefanova, Desislava I <desislava.i.stefanova@uscis.dhs.gov>; Lewis, Victoria E <Victoria.E.Lewis@uscis.dhs.gov>; Baj, Ewa <Ewa.Baj@uscis.dhs.gov>; Boyle, Meghann W <Meghann.Boyle@uscis.dhs.gov>; Dhanjal, Manpreet S <Manpreet.S.Dhanjal@uscis.dhs.gov>; Mikesell, Hannah K <hannah.k.mikesell@uscis.dhs.gov>; Bondy, Timothy <Timothy.Bondy@uscis.dhs.gov>; Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>; McPherson, Yaniece A <Yaniece.A.McPherson@uscis.dhs.gov>; Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>; Talamantes, Eudelia A <Eudelia.A.Talamantes@uscis.dhs.gov>; Gadson, Irvin C <Irvin.C.Gadson@uscis.dhs.gov>; Isaacson, Mollie <Mollie.Isaacson@uscis.dhs.gov>; Hong, Marianne X <Marianne.X.Hong@uscis.dhs.gov>; Andre, Lisa S <Lisa.S.Andre@uscis.dhs.gov>; Minnick, Frank R <Frank.R.Minnick@uscis.dhs.gov>; Kim, Alejandra <Alejandra.Kim@uscis.dhs.gov>; Lynn, Mallory L <Mallory.L.Lynn@uscis.dhs.gov>; Madsen, Kenneth S <Kenneth.S.Madsen@uscis.dhs.gov>; Rellis, Jennifer L <Jennifer.L.Rellis@uscis.dhs.gov>; Powless, Crystal Y <Crystal.Y.Powless@uscis.dhs.gov>; Hunt, Margo M <Margo.M.Hunt@uscis.dhs.gov>; Osuji, Kizito <Kizito.Osuji@uscis.dhs.gov>; Flanagan, Lisa M <Lisa.M.Flanagan@uscis.dhs.gov>; Kruszka, Robert F

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Cc: Lafferty, John L <John.L.Lafferty@uscis.dhs.gov>; Caudill-Mirillo, Ashley B <Ashley.Caudill-Mirillo@uscis.dhs.gov>; Roberts, Rhonda J <Rhonda.J.Roberts@uscis.dhs.gov>; O'Malley, Robert L <robert.l.omalley@uscis.dhs.gov>; RAIO-CBPFearTRN <raio-cbpfeartrn@uscis.dhs.gov>  
Subject: USBP OJT Week 2 Updates

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Again, thank you all very much for the time and effort you have put into this training.

Best,

Shannon Alexander

Asylum Officer

Asylum Training Division

DHS/USCIS/RAIO

Cube:

(b)(6)

Cell:

**MEMORANDUM OF AGREEMENT BETWEEN  
U.S. CUSTOMS AND BORDER PROTECTION (CBP)  
AND  
U.S. CITIZENSHIP & IMMIGRATION SERVICES (USCIS)**

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Under this agreement, USCIS will benefit by being able to adjudicate the backlog of asylum cases. Overall, this partnership will increase efficiency and effectiveness for DHS.

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  - ix. Schedule BPAs for tours of duty consistent with their elected BPAPRA Levels and rates of pay, and comply with all provisions of BPAPRA regarding regularly-scheduled overtime and substitution of hours for absences during obligated overtime hours.
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- iii. Conduct non-adversarial CF interviews, eliciting all relevant and useful information related to the applicant's claimed fear of return to his/her home country;
- iv. Take notes that accurately reflect the applicant's testimony;
- v. Prepare a summary of the material facts stated by the applicant and review that summary with the applicant, providing the applicant with the opportunity to correct any errors;
- vi. Detect and report possible victims of trafficking;
- vii. Be prepared to work their BPAPRA schedules and any necessary additional hours, including the possibility of overtime on regular days off in various locations, as needed;
- viii. Document each CF determination in conformance with the applicable statutes, regulations, policies and USCIS procedures;
- ix. Update the USCIS case management system with appropriate findings;
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- xii. Maintain applicant confidentiality;
- xiii. Conduct all relevant security checks;
- xiv. Wear business attire (non-uniform) when conducting in-person CF interviews, depending upon the office;
- xv. Attend meetings and trainings as required by the USCIS field office;
- xvi. Prepare required documents to ensure legally sufficient determinations;
- xvii. Maintain USCIS equipment according to USCIS protocols;
- xviii. Take necessary steps to return USCIS equipment to USCIS when the equipment is no longer needed for completion of CF cases;
- xix. Maintain non-adversarial liaison with nongovernmental organizations and/or private sector stakeholders; and
- xx. Perform other duties as assigned by USCIS/Asylum Division, with the prior written approval of CBP.

## 5. POINTS OF CONTACT.

A. CBP/United States Border Patrol  
 Robert Danley  
 Acting Associate Chief  
 U.S. Border Patrol HQ  
 Operational Requirements Management Division  
 1300 Pennsylvania Ave, NW, Suite 6.SE  
 Washington, DC 20229

Phone: [REDACTED] (b)(6)  
ROBERT.DANLEY@cbp.dhs.gov

B. USCIS

John Lafferty  
Chief  
Asylum Division  
US Citizenship and Immigration Services  
20 Massachusetts Ave, NW, 6<sup>th</sup> Floor  
Washington, DC 20529  
Phone: [REDACTED] (b)(6)  
John.L.Lafferty@uscis.dhs.gov

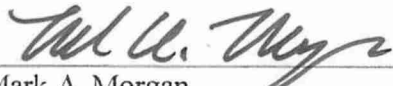
6. **OTHER PROVISIONS.** Nothing in this Agreement is intended to conflict with current law or regulation or the directives of the DHS. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect. This agreement is based on the availability of funds.
7. **EFFECTIVE DATE.** This agreement is effective upon signature by both Parties. The terms of this agreement shall apply to all cooperative activities between CBP and USCIS to facilitate the processing of credible fear claims under this MOA and any prior assignments of CBP personnel for these purposes shall be considered to be covered under the terms of this MOA, including but not limited to, any credible fear determinations made by a CBP officer prior to the date of the agreement.
8. **DURATION.** This MOA will remain in effect until the end of the pilot program or until terminated by the Parties. This agreement must be renewed through a signed extension after 180 days from the effective date. This agreement can be extended indefinitely in 180 day increments, or less thereafter.
9. **FUNDING.** This MOA does not obligate funds or create a financial obligation between the Parties. No provision of this MOA shall be interpreted to require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable law. All activities contemplated by this MOA are subject to availability of funds and other necessary resources to the Parties. An Interagency Agreement will be established between USCIS and CBP to obligate funds related to this MOA.
10. **MODIFICATION.** This agreement may be modified upon the written consent of both parties. This agreement may be reviewed at the request of either party to determine if any changes or amendments will be made or incorporated. Such changes



or amendments shall be signed by the original signatories of the agreement, their representatives, or their successors.

11. **TERMINATION.** Either party wishing to terminate this agreement may do so upon 30 days written notice.

12. **APPROVALS.**

  
\_\_\_\_\_  
Mark A. Morgan  
Acting Commissioner  
U.S. Customs and Border Protection  
Department of Homeland Security

7/10/19  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Ken Cuccinelli II  
Acting Director,  
U.S. Citizenship & Immigration  
Services  
Department of Homeland Security

7/3/2019  
\_\_\_\_\_  
Date

**Klayman, Amy S**

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**From:** Klayman, Amy S  
**Sent:** Monday, August 19, 2019 7:19 AM  
**To:** Garrett, Natalie M; McPherson, Yaniece A; Hanson, Greta E  
**Subject:** FW: USBP OJT Week 2 Updates  
**Attachments:** CBP USCIS MOA.pdf

Forwarding general updates on BP TDYS. Please note the section highlighted in yellow. If the BP agents are not yet signing in and out, please have them do so, starting immediately. Please make sure that you are aware of the hours that they are working and let me know if there are any issues.

We have a conference call with HQ this week, and I'll let you know if there are any more updates.

Thanks,

Amy

From: Alexander, Shannon <shannon.alexander@uscis.dhs.gov>  
Sent: Thursday, August 15, 2019 6:04 PM  
To: Hussey, Jedidah M <Jedidah.M.Hussey@uscis.dhs.gov>; Haertling, Peter G <Peter.G.Haertling@uscis.dhs.gov>; Daum, Robert L <Robert.L.Daum@uscis.dhs.gov>; Heinrich, Lorie R <Lorie.R.Heinrich@uscis.dhs.gov>; Gulati, Sonia <Sonia.Gulati@uscis.dhs.gov>; Lehman, Danielle E <Danielle.E.Lehman@uscis.dhs.gov>; Zeleke, Aster N <Aster.Zeleke@uscis.dhs.gov>; Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; Tyrell, Jody A <Jody-Ann.Tyrell@uscis.dhs.gov>; Radel, David M <David.M.Radel@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>; Raufer, Susan <Susan.Raufer@uscis.dhs.gov>; Stefanova, Desislava I <desislava.i.stefanova@uscis.dhs.gov>; Lewis, Victoria E <Victoria.E.Lewis@uscis.dhs.gov>; Baj, Ewa <Ewa.Baj@uscis.dhs.gov>; Boyle, Meghann W <Meghann.Boyle@uscis.dhs.gov>; Dhanjal, Manpreet S <Manpreet.S.Dhanjal@uscis.dhs.gov>; Mikesell, Hannah K <hannah.k.mikesell@uscis.dhs.gov>; Bondy, Timothy <Timothy.Bondy@uscis.dhs.gov>; Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>; McPherson, Yaniece A <Yaniece.A.McPherson@uscis.dhs.gov>; Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>; Talamantes, Eudelia A <Eudelia.A.Talamantes@uscis.dhs.gov>; Gadson, Irvin C <Irvin.C.Gadson@uscis.dhs.gov>; Isaacson, Mollie <Mollie.Isaacson@uscis.dhs.gov>; Hong, Marianne X <Marianne.X.Hong@uscis.dhs.gov>; Andre, Lisa S <Lisa.S.Andre@uscis.dhs.gov>; Minnick, Frank R <Frank.R.Minnick@uscis.dhs.gov>; Kim, Alejandra <Alejandra.Kim@uscis.dhs.gov>; Lynn, Mallory L <Mallory.L.Lynn@uscis.dhs.gov>; Madsen, Kenneth S <Kenneth.S.Madsen@uscis.dhs.gov>; Rellis, Jennifer L <Jennifer.L.Rellis@uscis.dhs.gov>; Powless, Crystal Y <Crystal.Y.Powless@uscis.dhs.gov>; Hunt, Margo M <Margo.M.Hunt@uscis.dhs.gov>; Osuji, Kizito <Kizito.Osuji@uscis.dhs.gov>; Flanagan, Lisa M <Lisa.M.Flanagan@uscis.dhs.gov>; Kruszka, Robert F

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 Robert Danley  
 Acting Associate Chief  
 U.S. Border Patrol HQ  
 Operational Requirements Management Division  
 1300 Pennsylvania Ave, NW, Suite 6.SE  
 Washington, DC 20229

Phone: [REDACTED] (b)(6)  
ROBERT.DANLEY@cbp.dhs.gov

B. USCIS  
John Lafferty  
Chief  
Asylum Division  
US Citizenship and Immigration Services  
20 Massachusetts Ave, NW, 6<sup>th</sup> Floor  
Washington, DC 20529  
Phone: [REDACTED] (b)(6)  
John.L.Lafferty@uscis.dhs.gov

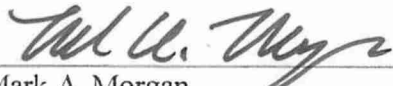
6. **OTHER PROVISIONS.** Nothing in this Agreement is intended to conflict with current law or regulation or the directives of the DHS. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect. This agreement is based on the availability of funds.
7. **EFFECTIVE DATE.** This agreement is effective upon signature by both Parties. The terms of this agreement shall apply to all cooperative activities between CBP and USCIS to facilitate the processing of credible fear claims under this MOA and any prior assignments of CBP personnel for these purposes shall be considered to be covered under the terms of this MOA, including but not limited to, any credible fear determinations made by a CBP officer prior to the date of the agreement.
8. **DURATION.** This MOA will remain in effect until the end of the pilot program or until terminated by the Parties. This agreement must be renewed through a signed extension after 180 days from the effective date. This agreement can be extended indefinitely in 180 day increments, or less thereafter.
9. **FUNDING.** This MOA does not obligate funds or create a financial obligation between the Parties. No provision of this MOA shall be interpreted to require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable law. All activities contemplated by this MOA are subject to availability of funds and other necessary resources to the Parties. An Interagency Agreement will be established between USCIS and CBP to obligate funds related to this MOA.
10. **MODIFICATION.** This agreement may be modified upon the written consent of both parties. This agreement may be reviewed at the request of either party to determine if any changes or amendments will be made or incorporated. Such changes



or amendments shall be signed by the original signatories of the agreement, their representatives, or their successors.

11. **TERMINATION.** Either party wishing to terminate this agreement may do so upon 30 days written notice.

12. **APPROVALS.**

  
\_\_\_\_\_  
Mark A. Morgan  
Acting Commissioner  
U.S. Customs and Border Protection  
Department of Homeland Security

7/10/19  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Ken Cuccinelli II  
Acting Director,  
U.S. Citizenship & Immigration  
Services  
Department of Homeland Security

7/3/2019  
\_\_\_\_\_  
Date

**Klayman, Amy S**

---

**From:** Klayman, Amy S  
**Sent:** Monday, August 19, 2019 8:17 AM  
**To:** Garrett, Natalie M  
**Subject:** RE: SAPSO Daily Report BTC/Krome for 08/19/19

Hi—

Will you be able to clean up all the cases that pending write-up, review, and service that 4-5 days on the clock? If Robert is taking a long time with his cases, please try to assign him only cases that are 0-1 days on the clock, or not have him have cases that overlap a weekend. We have a BP check-in call this weekend, so we'll need to talk to see where we are training and assigning work. It can be later in the day; I'm sure you have Monday morning crazy.

Amy

**From:** Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>  
**Sent:** Monday, August 19, 2019 8:48 AM  
**To:** McPherson, Yaniece A <Yaniece.A.McPherson@uscis.dhs.gov>; Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>; Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; Reese, Rebekah G <rebekah.g.reese@uscis.dhs.gov>; Miami Asylum SAPSO <Miami-Asylum-SAPSO@uscis.dhs.gov>  
**Subject:** SAPSO Daily Report BTC/Krome for 08/19/19

Good morning, all.

The BTC Daily Case Update Report is as follows:

**Cases Pending Intake BTC: 2 CF / 0 RF**

**Cases Pending Interview BTC: Total: 1**

| A NUMBER | CASE TYPE<br>(CF/RF) | CLOCK-IN DATE | DAYS ON CLOCK | DATE OF<br>INTERVIEW (IF<br>SCHEDULED) | NOTES |
|----------|----------------------|---------------|---------------|----------------------------------------|-------|
|          |                      |               |               |                                        |       |
|          |                      |               |               |                                        |       |

(b)(6)

**Cases Being Interviewed Today BTC: Total: 6**

| A NUMBER | CASE TYPE<br>(CF/RF) | CLOCK-IN DATE | DAYS ON CLOCK | DATE OF<br>INTERVIEW | NOTES |
|----------|----------------------|---------------|---------------|----------------------|-------|
|          |                      |               |               |                      |       |
|          |                      |               |               |                      |       |
|          |                      |               |               |                      |       |
|          |                      |               |               |                      |       |
|          |                      |               |               |                      |       |

**Cases Pending Write-up: Total: 1**

| A NUMBER | CASE TYPE<br>(CF/RF) | CLOCK-IN DATE | DAYS ON CLOCK | DATE OF<br>INTERVIEW | NOTES |
|----------|----------------------|---------------|---------------|----------------------|-------|
|          |                      |               |               |                      |       |
|          |                      |               |               |                      |       |

(b)(6)

Cases Pending SAPSO Review BTC: Total: 3

| A NUMBER | CASE TYPE<br>(CF/RF) | CLOCK-IN<br>DATE | DAYS ON<br>CLOCK | DATE OF<br>INTERVIEW | DATE<br>SUBMITTED | NOTES |
|----------|----------------------|------------------|------------------|----------------------|-------------------|-------|
|          |                      |                  |                  |                      |                   |       |
|          |                      |                  |                  |                      |                   |       |
|          |                      |                  |                  |                      |                   |       |

Cases Pending Service BTC: Total: 1

| A<br>NUMBER | CASE<br>TYPE<br>(CF/RF) | CLOCK-IN<br>DATE | DAYS<br>ON<br>CLOCK | DATE OF<br>INTERVIEW | DATE<br>SUBMITTED | DATE<br>SUPERVISORY<br>REVIEW<br>COMPLETE | NOTES |
|-------------|-------------------------|------------------|---------------------|----------------------|-------------------|-------------------------------------------|-------|
|             |                         |                  |                     |                      |                   |                                           |       |
|             |                         |                  |                     |                      |                   |                                           |       |
|             |                         |                  |                     |                      |                   |                                           |       |

Please let me know if you have any questions.

(b)(6)

Thank you,

**Natalie M. Garrett**

Acting Supervisory Asylum Pre-Screening Officer

Broward Transitional Center

Miami Asylum Office

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**Alexander, Shannon**

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**From:** Alexander, Shannon  
**Sent:** Tuesday, August 20, 2019 6:59 AM  
**To:** Talamantes, Eudelia A  
**Cc:** Aguilar, Kimberly M; O'Malley, Robert L; Roberts, Rhonda J; Papazian, Varsenik L; Pueschel, Tracy W; Klayman, Amy S; McPherson, Yaniece A; Garrett, Natalie M  
**Subject:** Re: CF for USBP HQ Call and Post Training Agent Assignments

Hi!

Apologies for the late reply, I was away from the office. The call is scheduled for Thursday so that we can maximize participation. You should have received a calendar invite last week.

Sent from my iPhone

On Aug 20, 2019, at 7:40 AM, Talamantes, Eudelia A <[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)> wrote:

Good morning,

Training is from 2 – 4 pm every Tuesday afternoon.

ET

**From:** Alexander, Shannon <[shannon.alexander@uscis.dhs.gov](mailto:shannon.alexander@uscis.dhs.gov)>  
**Sent:** Thursday, August 15, 2019 11:22 AM  
**To:** Aguilar, Kimberly M <[Kimberly.M.Aguilar@uscis.dhs.gov](mailto:Kimberly.M.Aguilar@uscis.dhs.gov)>; O'Malley, Robert L <[robert.l.omalley@uscis.dhs.gov](mailto:robert.l.omalley@uscis.dhs.gov)>; Roberts, Rhonda J <[Rhonda.J.Roberts@uscis.dhs.gov](mailto:Rhonda.J.Roberts@uscis.dhs.gov)>  
**Cc:** Papazian, Varsenik L <[Varsenik.L.Papazian@uscis.dhs.gov](mailto:Varsenik.L.Papazian@uscis.dhs.gov)>; Pueschel, Tracy W <[Tracy.L.Pueschel@uscis.dhs.gov](mailto:Tracy.L.Pueschel@uscis.dhs.gov)>; Klayman, Amy S <[Amy.S.Klayman@uscis.dhs.gov](mailto:Amy.S.Klayman@uscis.dhs.gov)>; McPherson, Yaniece A <[Yaniece.A.McPherson@uscis.dhs.gov](mailto:Yaniece.A.McPherson@uscis.dhs.gov)>; Garrett, Natalie M <[natalie.m.garrett@uscis.dhs.gov](mailto:natalie.m.garrett@uscis.dhs.gov)>; Talamantes, Eudelia A <[Eudelia.A.Talamantes@uscis.dhs.gov](mailto:Eudelia.A.Talamantes@uscis.dhs.gov)>  
**Subject:** RE: CF for USBP HQ Call and Post Training Agent Assignments

Thank for very much for your response and for all of the effort you've put into continuing to train Agents Baez and Vazquez.

Just one follow up question - at what time is your weekly training?

Best,

Shannon

**From:** Aguilar, Kimberly M <[Kimberly.M.Aguilar@uscis.dhs.gov](mailto:Kimberly.M.Aguilar@uscis.dhs.gov)>  
**Sent:** Thursday, August 15, 2019 9:49 AM  
**To:** Alexander, Shannon <[shannon.alexander@uscis.dhs.gov](mailto:shannon.alexander@uscis.dhs.gov)>; O'Malley, Robert L <[robert.l.omalley@uscis.dhs.gov](mailto:robert.l.omalley@uscis.dhs.gov)>; Roberts, Rhonda J <[Rhonda.J.Roberts@uscis.dhs.gov](mailto:Rhonda.J.Roberts@uscis.dhs.gov)>  
**Cc:** Papazian, Varsenik L <[Varsenik.L.Papazian@uscis.dhs.gov](mailto:Varsenik.L.Papazian@uscis.dhs.gov)>; Pueschel, Tracy W

<Tracy.L.Pueschel@uscis.dhs.gov>; Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; McPherson, Yaniece A <Yaniece.A.McPherson@uscis.dhs.gov>; Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>; Talamantes, Eudelia A <Eudelia.A.Talamantes@uscis.dhs.gov>  
**Subject:** FW: CF for USBP HQ Call and Post Training Agent Assignments

Good morning All—

I realized I did not include the information for the SAOs and TOs working with the agents at the ZMI in my message yesterday on the agents' assignment plan. Each will be working at one of the two detention facilities in our local commuting area. The SAOs and TO are:

- SAO Yaniece McPherson, Agent Baez - Krome;
- Acting SAO Natalie Garrett, Agent Vasquez - Broward Transitional Center (BTC);
- TO Eudelia Talamantes.

Please include Section Chief Amy Klayman and me on the invitation as well.

Tuesday afternoon is the mandatory training time for ZMI. As such, Tuesday morning is the best time for a call.

Please let me know if you need any additional information.

---

Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
Phone: [REDACTED] (b)(6)

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**From:** Alexander, Shannon <shannon.alexander@uscis.dhs.gov>

**Sent:** Tuesday, August 13, 2019 10:39 AM

**To:** Roberts, Rhonda J <Rhonda.J.Roberts@uscis.dhs.gov>; Hussey, Jedidah M <Jedidah.M.Hussey@uscis.dhs.gov>; Lafferty, John L <John.L.Lafferty@uscis.dhs.gov>; O'Malley, Robert L <robert.l.omalley@uscis.dhs.gov>; Caudill-Mirillo, Ashley B <Ashley.Caudill-Mirillo@uscis.dhs.gov>; Haertling, Peter G <Peter.G.Haertling@uscis.dhs.gov>; Daum, Robert L <Robert.L.Daum@uscis.dhs.gov>; Heinrich, Lorie R <Lorie.R.Heinrich@uscis.dhs.gov>; Gulati, Sonia <Sonia.Gulati@uscis.dhs.gov>; Lehman, Danielle E <Danielle.E.Lehman@uscis.dhs.gov>; Zeleke, Aster N <Aster.Zeleke@uscis.dhs.gov>; Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; Tyrell, Jody A <Jody-Ann.Tyrell@uscis.dhs.gov>; Radel, David M <David.M.Radel@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>; Raufer, Susan <Susan.Raufer@uscis.dhs.gov>; Boyle, Meghann W <Meghann.Boyle@uscis.dhs.gov>; Dhanjal, Manpreet S <Manpreet.S.Dhanjal@uscis.dhs.gov>; Mikesell, Hannah K <hannah.k.mikesell@uscis.dhs.gov>; Bondy, Timothy <Timothy.Bondy@uscis.dhs.gov>; Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>; Gadson, Irvin C <Irvin.C.Gadson@uscis.dhs.gov>; Isaacson, Mollie <Mollie.Isaacson@uscis.dhs.gov>; Hong, Marianne X <Marianne.X.Hong@uscis.dhs.gov>; Madsen, Kenneth S <Kenneth.S.Madsen@uscis.dhs.gov>; Rellis, Jennifer L <Jennifer.L.Rellis@uscis.dhs.gov>; Flanagan, Lisa M <Lisa.M.Flanagan@uscis.dhs.gov>; Kruszka, Robert F <Robert.F.Kruszka@uscis.dhs.gov>; Bardini, Emilia M <Emilia.M.Bardini@uscis.dhs.gov>; Hemming, Bryan D <Bryan.D.Hemming@uscis.dhs.gov>; Douglas, Audrey M <Audrey.M.Douglas@uscis.dhs.gov>; Motolenich Torres, Catherine

<catherine.motolenichtorres@uscis.dhs.gov>; Timothee, Fritz G <Fritz.G.Timothee@uscis.dhs.gov>; Brodrecht, Anna M <anna.m.brodrecht@uscis.dhs.gov>; Carter, Lovely L <lovely.l.carter@uscis.dhs.gov>; Sellung, Ashlee <ashlee.sellung@uscis.dhs.gov>; Fairbank, Christina <Christina.Fairbank@uscis.dhs.gov>; Berger, Jack S III <Jack.S.Berger@uscis.dhs.gov>; Robinson, Joi L <Joi.L.Robinson@uscis.dhs.gov>; Jackson, Yolanda <Yolanda.Jackson@uscis.dhs.gov>; Powless, Crystal Y <Crystal.Y.Powless@uscis.dhs.gov>

**Subject:** CF for USBP HQ Call and Post Training Agent Assignments

Good Morning,

As the second week of on the job training with the BP agents is underway, we have two requests.

First, we would like to set up regular calls between HQ and the SAOs and TOs working with USBP in your office. We anticipate that the first call will be Tuesday, August 20<sup>th</sup>.

Second, RAIO Travel will soon begin to work with the agents for the next phase of their travel. After consulting with each agent and considering their schedules and pre-approved leave, you may assign agents to return to their home sectors, interview at detention centers or remain in your offices. Please inform us and RAIO Travel of your plans for each agent assigned to your office so that all transitions are as smooth as possible.

Please send your SAO/TO POCs, a general time that works for you on Tuesday and agent assignment plans to me, Bob and Rhonda by **COB tomorrow Wednesday, August 14<sup>th</sup>**. The agent assignment plans should also be sent to RAIO Travel.

Thank you.

Best,

**Shannon Alexander**

Asylum Officer

Asylum Training Division

DHS/USCIS/RAIO

Cube:

Cell:  (b)(6)

**Aguilar, Kimberly M**

---

**From:** Aguilar, Kimberly M  
**Sent:** Wednesday, August 21, 2019 8:12 AM  
**To:** Klayman, Amy S; Timothee, Fritz G; McPherson, Yaniece A; Garrett, Natalie M  
**Cc:** Papazian, Varsenik L; Miami Asylum SAPSO; Miami Asylum SAO; Pueschel, Tracy W  
**Subject:** FW: Interim Final Rule and CF for USBP  
**Attachments:** Orientation memo to file July 16 2019.docx; Form I-869A July 16 2019.docx; CF Checklist 3 (effective 7.16.19).docx; 208.13(c)(4) Mandatory Bar Worksheet 7.16.19 Updated.docx; I-870 Annotated 7.16.19.doc; Reasonable Fear Standard of Proof and Eligibility Overview Slides August 2019.pptx; Third Country Asylum Bar Training 2019-07-16 updated.pptx; FW: Amended Guidance on the Interim Final Rule and the 9th Circuit Injunction .msg

Good morning All—

Please see the message below and attachments.

---

Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
Phone:  (b)(6)

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**From:** Alexander, Shannon <shannon.alexander@uscis.dhs.gov>  
**Sent:** Tuesday, August 20, 2019 6:25 PM  
**To:** RAIO - Asylum Field Office Managers <RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov>; RAIO - Asylum HQ Leadership <RAIO-AsylumHQLeadership@uscis.dhs.gov>  
**Cc:** Beighley, Tracy L <tracy.l.beighley@uscis.dhs.gov>  
**Subject:** Interim Final Rule and CF for USBP

~~FOR INTERNAL USE ONLY~~

Good Evening Everyone,

Following up on the recent Ninth Circuit decision *East Bay v. Barr*, No. [19-16487](#) (9th Cir. Aug. 16, 2019) (*East Bay II*), we wanted to provide you with resources to assist any CBP Agents who may be screening non-Ninth Circuit cases where the IFR is implicated as CBP officers have not received formal training in RF.

This includes the following:

- Asylum Division Deputy Chief Ashley Caudill-Mirillo's 20 August 2019 email regarding IFR
- Asylum Division Chief John Lafferty's 15 July 2019 email regarding the IFR (pasted below)

- Orientation Memo to File
- Form I-869A
- CF Checklist 3
- 208.13(c)(4) Mandatory Bar Worksheet
- I-870 Annotated
- Third Country Asylum Bar Training PowerPoint
- Reasonable Fear Standard of Proof and Eligibility Overview Slides (Note: This PowerPoint contains the most relevant slides to your adjudication, which have been excerpted from the most recent RF training conducted for asylum officers)

Additionally, the following Lesson Plans may be helpful:

- *Reasonable Fear* (except sections III – Jurisdiction, and VII Prior Determination on the Merits):  
<https://ecn.uscis.dhs.gov/team/raio/PerMgt/Training/Lesson%20Plans/Forms/ASYview.aspx>
- *Trafficking*:  
<https://ecn.uscis.dhs.gov/team/raio/PerMgt/Training/Lesson%20Plans/Forms/RAIOonly.aspx>

At a minimum, please forward these materials to any CBP officers who are assigned to your office, make sure they have time to review these materials, and ask them to send any questions to their assigned Supervisory Asylum Officer and/or the local Training Officer.

Offices have flexibility on the manner of delivery and communication of this guidance and should take into account any localized needs and limitations.

Best,

**Shannon Alexander**

Asylum Officer – *Acting Training Branch Chief*

Asylum Training Division

DHS/USCIS/RAIO

Cube: [REDACTED]

Cell: [REDACTED] (b)(6)

**From:** Lafferty, John L <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)>

**Sent:** Monday, July 15, 2019 8:38 PM

**To:** RAIO - Asylum Field Office Managers <[RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov](mailto:RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov)>; RAIO - Asylum HQ <[RAIO-Asylum@uscis.dhs.gov](mailto:RAIO-Asylum@uscis.dhs.gov)>; RAIO - Asylum Field Office Staff <[RAIO-Test@uscis.dhs.gov](mailto:RAIO-Test@uscis.dhs.gov)>

**Cc:** RAIO - Executive Leadership <[RAIO-ExecutiveLeadership@uscis.dhs.gov](mailto:RAIO-ExecutiveLeadership@uscis.dhs.gov)>

**Subject:** Interim Final Rule - Asylum Eligibility and Procedural Modifications

Asylum Division colleagues,

Earlier today, a joint Department of Justice and Department of Homeland Security Interim Final Rule (IFR) titled, *Asylum Eligibility and Procedural Modifications*, was posted by the Federal Register for public inspection. The new rule is scheduled to be officially published in the Federal Register and go into effect tomorrow, July 16, 2019. Below is a summary of what the regulation says and how it will impact our work going forward:

- Aliens covered by the IFR

Under the new 8 CFR § 208.13(c)(4), any alien who enters, attempts to enter, or arrives in the US across the southern land border on or after **July 16, 2019**, is ineligible for asylum, unless the alien



- Demonstrates that he or she applied for protection from persecution or torture in at least one country outside his or her country of nationality or last habitual residence through which he or she transited in route to the US, and the alien received a final judgement denying the alien protection in such country,
- Demonstrates that he or she satisfies the definition of victim of a severe form of trafficking in persons provided in 8 CFR 214.11 (everyone should have received training on this during your initial officer training; please refer to your Detecting Possible Victims of Trafficking RAO Combined Training Course training module for guidance), or
- The only countries through which the alien transited in route to the US, at the time of transit, were not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, or the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (at present, those countries would be Bhutan, Grenada, Kiribati, Malaysia, Micronesia, Myanmar, North Korea, Oman, Singapore, and Tonga)

Nothing in the IFR limits an alien from being considered for withholding of removal or protection under CAT, or limits the processes applied to UACs pursuant to TVPRA.

#### Revised CF screening for aliens subject to the new asylum bar

In addition, under the newly amended regulation at 8 CFR § 208.30(e)(5)(iii), any alien placed into expedited removal who is referred to us for a credible fear screening and who is determined to be ineligible for asylum under the new 8 CFR § 208.13(c)(4) shall

- Receive a negative credible finding as to any asylum claim under INA Section 208; and
- Have any claim to eligibility for withholding of removal or protection under the Convention Against Torture considered under the “reasonable possibility” reasonable fear screening standard **instead of** the “significant possibility” credible fear screening standard.

Besides this changed screening standard for withholding and CAT, all the other usual CF screening procedures and rules apply to these cases, including issuing someone who receives a positive fear finding a Notice to Appear (NTA) to place the person into INA Section 240 removal proceedings.

Below you will find some more detailed “nuts and bolts” instructions for how to handle CF cases impacted by these changes. Further instructions for how we will process affirmative asylum claims impacted by these changes will be forthcoming.

Finally, let me give you a few key takeaways:

- No changes are being made at this time to our processing and screening of Reasonable Fear referrals under 8 CFR § 208.31;
- No changes are being made at this time to our processing and screening of Credible Fear referrals for those aliens who are not impacted by the new asylum bar;
- We have been doing Reasonable Fear screenings for years; conducting RF screenings for aliens impacted by the new asylum bar should be no different;
- The new bar to asylum will apply to affirmative asylum applications, but only for individuals who entered, attempted to enter, or arrived in the US across the southern land border on or after July 16, 2019. It will likely be several weeks or months before we interview and adjudicate any affirmative asylum cases that are impacted by this bar.

We are once again being asked to adapt, and to do so with very little time to train and prepare. If I didn’t know that we have some of the most dedicated, most adaptable, and most talented public servants presently serving in the federal government, I would be concerned about being able to implement these changes on such short notice. Fortunately, each of you are all of those things and much, much more.

I fully expect there to be many questions as this is implemented in the coming days and weeks. Please bring those questions forward to your office leadership so that we can attempt to respond as quickly as possible, and share those

responses with the other offices.

Thanks!

John

SUBJECT: Updated Procedures for Implementing the Interim Final Rule

Effective beginning July 16, 2019, and pursuant to 8 CFR 208.13(c)(4), this message provides updated procedures for the processing of Credible Fear cases. In particular, this guidance modifies the Credible Fear of Persecution and Torture Determinations Lesson Plan ("Credible Fear Lesson Plan"), the Credible Fear Procedures Manual, and all other prior guidance documentations and memorandums that are inconsistent with the Interim Final Rule published on July 16, 2019.

Instructions on the impact of this IFR on affirmative asylum processing will be forthcoming. To be subject to the bar the alien must enter, attempt to enter, or arrive in the US across the southern land border on or after July 16, 2019.

These updated procedures are effective immediately and apply to any APSO screening determination issued after July 15, 2019. All asylum offices are responsible for conducting field training for staff on these updated procedures as soon as practicable, no later than one week from today. A PowerPoint training is attached.

Officers **must be trained on reasonable fear** to adjudicate cases subject to the IFR.

Aliens placed in the expedited removal process under INA §235(b)(1) must be referred to USCIS for a credible fear screening if they express a fear of returning to their country. These new procedures only apply to aliens who enter, attempt to enter, or arrive in the US across the southern land border. Cases where aliens enter or attempt to enter or arrive in other locations should follow current Asylum Division Credible Fear Procedures.

Jurisdiction

The Interim Final Rule does not alter the referral process. The Asylum Office must receive all the jurisdictional documents listed at III.B. of the Credible Fear Procedures Manual prior to adjudicating the case. The AO and SAO must confirm that the asylum division has proper jurisdiction in each case.

Interview

Prior to interviewing a case, the asylum officer should review jurisdictional documents (such as the I-213, I-860, I-867A and B) to ascertain the alien's date and manner of entry into the United States.

Jurisdictional documents alone are not enough to establish the application of the bar. An asylum officer must also elicit information regarding potential exceptions and complete the Third-Country Transit Bar Worksheet.

If the officer establishes that the bar applies and that no exceptions to the bar are applicable, the officer should inform the alien that the reasonable possibility standard will apply to the claim. This explanation should be documented in an orientation memo to file (see attached memo).

Once the officer establishes that the bar applies, the officer will make a negative credible fear finding as to asylum and interview the alien to determine if he or she meets the reasonable possibility standard for persecution and the Convention Against Torture. Please see the Reasonable Fear of Persecution and Torture Determinations Lesson Plan for more information on this standard.

1. **Third-Country Transit Bar Worksheet:** Must be completed for all individuals who entered, attempted to enter, or arrived in the US across the southern land border on or after **July 16, 2019**.
2. **Orientation Memo to File:** When the AO determines that the bar applies, the adjudicator must explain to the alien that he or she will be screened according to the reasonable possibility standard and complete a memo to file. The memo is not required if the alien is not subject to the bar or if he or she establishes that the bar does not apply.
3. **I-870:** Use I-870 dated 7/11/19 for all cases.
4. **CF Checklist:** For applicants barred for asylum, please use the “Credible Fear Determination Checklist and Written Analysis for Applicants in Expedited Removal Found Barred from Asylum Pursuant to 208.13(c)(4).” (Checklist 3). Checklist 3 contains instructions regarding the applicable legal standard.
5. **I-869A:** Use I-869A instead of I-869 to document negative determinations for applicants who are barred and are screened using the reasonable fear standard.
6. **Global:** Only for cases subject to IFR, offices select special group code “**bar - 13(c)(4)**.” If the individual establishes an exception to the bar, offices select special group code “**no bar - 13(c)(4)**.” Officers, SAOs and all involved in case processing are reminded to make sure that one of these special group codes **must be selected** whenever the individual interviewed is comes within the scope of this new IFR bar.

If you have any questions concerning the procedures contained in this memorandum, please contact the headquarters APSO point or points of contact. We will be updating the Credible Fear Lesson Plan and Credible Fear Procedures Manual in the future.

Attachments: Third-Country Transit Bar Worksheet  
Orientation memo to file  
I-870, dated 7/11/19  
CF Checklist 3  
I-869A  
PPT

### Third-Country Transit Bar Worksheet (8 CFR 208.13(c)(4))

|                                                                                                                                                                                                                                                                                                                                                                                   |             |                 |                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------|-------------------------------------|
| A#:                                                                                                                                                                                                                                                                                                                                                                               | Alien Name: | AO Name/Number: | Date:                               |
| <b>A. Arrival Date</b> <i>(If checking “no”, bar does not apply and this form does not need to be completed.)</i>                                                                                                                                                                                                                                                                 |             |                 |                                     |
| Did the alien enter, attempt to enter, or arrive in the United States <i>across the southern land border</i> on or after July 16, 2019?                                                                                                                                                                                                                                           |             |                 | <b>Yes</b> <input type="checkbox"/> |
| Explanation:                                                                                                                                                                                                                                                                                                                                                                      |             |                 | <b>No</b> <input type="checkbox"/>  |
| <b>B. 8 CFR 208.13(c)(4) Mandatory Bar Analysis</b> <i>(If checking “no” in box B.1, do not complete boxes B.2, B.3 and B.4 as an exception applies. If checking “yes” in boxes B.1 and B.2, B.3 or B.4, then an exception applies. If checking “yes” in boxes B.1 and “no” in boxes B.2, B.3 and B.4, then bar applies and there is no exception available.)</i>                 |             |                 |                                     |
| 1. <b>Transit:</b> Did the alien transit through any country apart from his or her country of nationality (or last habitual residence) en route to the United States?                                                                                                                                                                                                             |             |                 | <b>Yes</b> <input type="checkbox"/> |
| List all applicable countries:                                                                                                                                                                                                                                                                                                                                                    |             |                 | <b>No</b> <input type="checkbox"/>  |
| 2. <b>Protection Sought:</b> Did the alien demonstrate that s/he applied for protection in at least one country and received a final judgment denying protection?                                                                                                                                                                                                                 |             |                 | <b>Yes</b> <input type="checkbox"/> |
| Evidence or Explanation:                                                                                                                                                                                                                                                                                                                                                          |             |                 | <b>No</b> <input type="checkbox"/>  |
| 3. <b>Severe Trafficking Victim:</b> Did the alien demonstrate that s/he meets the definition of “victim of a severe form of trafficking in persons”, as defined in 8 CFR § 214.11?                                                                                                                                                                                               |             |                 | <b>Yes</b> <input type="checkbox"/> |
| A severe form of trafficking in persons is defined as either:                                                                                                                                                                                                                                                                                                                     |             |                 | <b>No</b> <input type="checkbox"/>  |
| a) Sex trafficking in which a commercial sex act is induced by:                                                                                                                                                                                                                                                                                                                   |             |                 |                                     |
| ○ Force, fraud, or coercion, or                                                                                                                                                                                                                                                                                                                                                   |             |                 |                                     |
| ○ Person induced is under the age of 18; <b>or,</b>                                                                                                                                                                                                                                                                                                                               |             |                 |                                     |
| b) Recruiting, harboring, transporting, provisioning, or obtaining a person for labor or services through the use of force, fraud, or coercion for subjection to:                                                                                                                                                                                                                 |             |                 |                                     |
| ○ Involuntary servitude; peonage; debt bondage; or slavery                                                                                                                                                                                                                                                                                                                        |             |                 |                                     |
| Explanation:                                                                                                                                                                                                                                                                                                                                                                      |             |                 |                                     |
| 4. <b>Protection Unavailable in Countries Transited:</b>                                                                                                                                                                                                                                                                                                                          |             |                 | <b>Yes</b> <input type="checkbox"/> |
| The only countries through which the alien transited en route to the United States, were, at the time of the transit, not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, or the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. |             |                 | <b>No</b> <input type="checkbox"/>  |

### Third-Country Transit Bar Worksheet (8 CFR 208.13(c)(4))

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p><b>C. Decision</b></p> <p><i>If the alien established that the bar does not apply, or if an exception applies, continue processing as a credible fear or affirmative case.</i></p> <p><i>If the alien failed to establish that s/he is not barred:</i></p> <ul style="list-style-type: none"><li>• <i>If the alien is in expedited removal, continue screening for withholding and CAT using the <b>reasonable fear</b> standard.</i></li><li>• <i>If the alien filed affirmatively, complete interview and address the mandatory bar in the referral/denial.</i></li></ul> |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

**CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS**  
**FOR APPLICANTS IN EXPEDITED REMOVAL FOUND BARRED FROM ASYLUM PURSUANT TO 208.13(c)(4)**  
**[JULY 16, 2019] [CHECKLIST 3]**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |          |            |                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------|------------------------------------------------------------------------|
| A#:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | COUNTRY: | APSO Name: | DATE:                                                                  |
| <p><i>By using this checklist, the adjudicator has determined that the applicant is barred for asylum pursuant to 8 C.F.R. 208.13(c)(4).</i></p> <p><i>If there is a reasonable possibility of persecution, complete Sections A., B., and C. If there is a reasonable possibility of torture, complete Sections A., B., and D. If there is not a reasonable possibility of persecution or torture, complete Sections A., B., C., and D. unless the claim fails in Section A.2. (Future Harm) or Section B. (Credibility), in which case, stop and complete Form I-870.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |          |            |                                                                        |
| <p><b>A. Harm</b> <i>(If yes to A.2., proceed with the analysis. If no to A.2., STOP and complete Form I-870.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |          |            |                                                                        |
| <p>1. Has the applicant testified that he or she has experienced <u>past</u> harm in his or her country?<br/> <i>If yes, identify any past harm or mistreatment suffered, and identify the relevant entity.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>2. Has the applicant testified that he or she fears <u>future</u> harm if returned to his or her country?<br/> <i>If yes, identify any harm or mistreatment feared, and identify the relevant entity. If no, explain and complete Form I-870.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p><b>B. Credibility</b> <i>(Select the appropriate box and analyze whether the applicant's testimony was credible or not credible.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |          |            |                                                                        |
| <p><b>Applicant's testimony was credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was consistent, detailed, and plausible. Therefore, it is found credible. <i>(Check box, explain only if overall decision is positive, and move to Section C. or D.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |          |            | <input type="checkbox"/>                                               |
| <p><b>Applicant's testimony was not credible:</b> Considering the identified credibility concern(s), the absence of reasonable explanations for those concerns, and taking into consideration the applicant's individual circumstances, the applicant's testimony is found not credible under the totality of the circumstances and all relevant factors. <i>(Check box, explain, STOP and complete Form I-870.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |          |            | <input type="checkbox"/>                                               |
| <p><b>C. Persecution</b> <i>(Select as needed. If yes to C.1. or C.2., complete C.3. If no to C.1 and C.2., complete C.3.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |          |            |                                                                        |
| <p>1. a. <u>Past Persecution:</u> The applicant established that:</p> <ul style="list-style-type: none"> <li>• The harm experienced was sufficiently serious to amount to persecution;</li> <li>• The entity that harmed the applicant was motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion, applying the one central reason standard; and</li> <li>• The entity that harmed the applicant was an agent of the government or an entity that the government was unable or unwilling to control.</li> </ul> <p style="text-align: center;"><b>AND</b></p> <p>1. b. The presumption of well-founded fear has <b>not</b> been rebutted by a preponderance of the evidence that 1) there has been a fundamental change in circumstances such that the applicant no longer has a well-founded fear, or 2) it would be reasonable, under all the circumstances, for the applicant to relocate within the applicant's country to avoid future persecution.</p> |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>2. <u>Future Persecution:</u> The applicant established a <b>reasonable possibility</b> of persecution on account of a protected ground:</p> <ul style="list-style-type: none"> <li>• The harm feared is sufficiently serious to amount to persecution;</li> <li>• The applicant 1) either <u>possesses</u> a protected characteristic of which the feared entity is or could become <u>aware</u> or the feared entity believes that the applicant possesses a protected characteristic, and 2) the feared entity has the <u>capability</u> and <u>inclination</u> to persecute the applicant, OR there is a <u>pattern or practice</u> of persecution of a group of persons similarly situated to the applicant on account of a protected ground; and</li> <li>• Under all the circumstances, it would not be reasonable for the applicant to relocate within the applicant's country to avoid future persecution.</li> </ul>                                                                                                                         |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>C.3. <u>Written Analysis:</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |          |            |                                                                        |

Race ☐ Religion ☐ Nationality ☐ Membership in a Particular Social Group ☐ Political Opinion ☐

If reasonable possibility of persecution established, identify the protected ground and specify:

*As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

**D. Torture** (Select D.1. as needed and complete D.2.)

**D.1.** There is a **reasonable possibility** that:

- The feared harm would be specifically intended to inflict severe pain or suffering on the applicant;
- The feared harm would constitute severe physical or mental pain or suffering;
- The feared harm would be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity;
- The applicant would be in the offender's custody or physical control; **and**
- The harm would not arise only from or be inherent in or incidental to lawful sanctions.

In making this determination, the following evidence must be considered:

- Evidence of past torture inflicted upon the applicant;
- Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;
- Evidence of gross, flagrant or mass violations of human rights within the country of removal; and other relevant information regarding conditions in the country of removal.

If the applicant has established past torture **AND** there are no changes in circumstances so substantial such that the applicant does not have a reasonable fear of torture, the applicant will be found to have established a reasonable fear of torture.

Yes ☐

No ☐

**D.2. Written Analysis:** *As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*



**Record of Negative Credible/Reasonable Fear Finding and  
Request For Review by Immigration Judge for Aliens Barred  
From Asylum Pursuant to 8 CFR 208.13(c)(4)**

Alien File Number: \_\_\_\_\_

**1. To be explained to the alien by the asylum officer:**

**A.** U.S. Citizenship and Immigration Services (USCIS) has determined that you are an alien described in 8 CFR 208.13(c)(4) and therefore, you have not established a credible fear because you cannot show a significant possibility of establishing eligibility for asylum.

**B.** You have not established a reasonable fear with respect to your application for withholding of removal under INA 241(b)(3) or withholding or deferral of removal under the Convention Against Torture pursuant to 8 CFR 208.16 for the following reason(s):

- ☐ You have not established a reasonable fear of persecution in a country to which you have been ordered removed because:
- ☐ You have not indicated that you were harmed in the past and you have not expressed fear of future harm.
  - ☐ There is no reasonable possibility that the harm you experienced and/or the harm you fear is on account of your race, religion, nationality, political opinion, or membership in a particular social group.
  - ☐ You have not indicated that you were harmed in the past, or there is no reasonable possibility that the past harm or the harm you fear in the future constitutes persecution.
  - ☐ There is no reasonable possibility that you would suffer the harm you fear.
  - ☐ You could reasonably avoid persecution by relocating within your country.

**AND**

- ☐ You have not established a reasonable fear of torture in a country to which you may be removed because you have not established that there is a reasonable possibility that:
- ☐ You would suffer severe physical or mental pain or suffering.
  - ☐ The harm you fear would be specifically intended to inflict severe physical or mental pain or suffering.
  - ☐ The harm you fear would be inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity.
  - ☐ The harm you fear would be inflicted while you are in the custody or physical control of the offender.
  - ☐ The harm you fear would not arise only from, would not be inherent in, and would not be incidental to, lawful sanctions.

**C.** ☐ Considering the totality of the circumstances and all relevant factors, you have not established that your testimony is credible.

Therefore, you are ordered removed from the United States. You may request that an Immigration Judge review this decision.

If you request that an Immigration Judge review this decision, you will remain in detention until an Immigration Judge reviews your case. That review could occur as long as 7 days after you receive this decision.

If you indicate below that do not request that an Immigration Judge review the decision, you may be removed from the United States immediately.

**2. To be completed by the alien:**

- ☐ **Yes, I request Immigration Judge review** of the decisions that I do not have a credible fear of persecution or torture and that I do not have a reasonable fear of persecution or torture.
- ☐ **No, I do not request Immigration Judge review** of the decisions that I do not have a credible fear of persecution or torture and that I do not have a reasonable fear of persecution or torture.

\_\_\_\_\_  
Applicant's Last Name/ Family Name (Print)

\_\_\_\_\_  
Applicant's First Name (Print)

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Asylum Officer's Last Name (Print)

\_\_\_\_\_  
Asylum Officer's First Name, (Print)

\_\_\_\_\_  
Date

The contents of this form were read and explained to the applicant in the \_\_\_\_\_ language

Interpreter used:

By telephone (list interpreter service /ID number used \_\_\_\_\_).

In person (I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.)

\_\_\_\_\_  
Interpreter's Signature

\_\_\_\_\_  
Date



**Record of Negative Credible/Reasonable Fear Finding and  
Request For Review by Immigration Judge for Aliens Barred  
From Asylum Pursuant to 8 CFR 208.13(c)(4)**

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**Caudill-Mirillo, Ashley B**

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**From:** Caudill-Mirillo, Ashley B  
**Sent:** Tuesday, August 20, 2019 12:44 PM  
**To:** RAIO - Asylum HQ  
**Subject:** FW: Amended Guidance on the Interim Final Rule and the 9th Circuit Injunction  
**Attachments:** 9 East Bay Covenant (Aug 16 2019).pdf  
**Importance:** High

**FOR INTERNAL USE ONLY**

Good afternoon HQ,

My apologies. I missed including our distribution list in my haste to get the guidance to the field.

Thanks!

---

**From:** Caudill-Mirillo, Ashley B <Ashley.Caudill-Mirillo@uscis.dhs.gov>  
**Sent:** Tuesday, August 20, 2019 9:30 AM  
**To:** RAIO - Asylum HQ Leadership <RAIO-AsylumHQLeadership@uscis.dhs.gov>; RAIO - Asylum Field Office Managers <RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov>; RAIO - Asylum Field Office Staff <RAIO-Test@uscis.dhs.gov>; RAIO - Executive Leadership <RAIO-ExecutiveLeadership@uscis.dhs.gov>; RefugeeAffairsTDY <refugeeaffairstdy@uscis.dhs.gov>  
**Subject:** Amended Guidance on the Interim Final Rule and the 9th Circuit Injunction  
**Importance:** High

**FOR INTERNAL USE ONLY**

Asylum Division Staff,

As you know, the Ninth Circuit issued the attached decision in *East Bay v. Barr*, No. [19-16487](#) (9th Cir. Aug. 16, 2019) (*East Bay II*) partially granting and partially denying the Government's motion to stay the district court's preliminary injunction of the DOJ/DHS joint interim final rule, "Asylum Eligibility and Procedural Modifications," 84 Fed. Reg. 33,829 (July 16, 2019), i.e., the third country transit asylum bar IFR. The Ninth Circuit denied the motion for a stay pending appeal insofar as the injunction applies within the Ninth Circuit, but granted the motion for a stay pending appeal insofar as the injunction applies outside the Ninth Circuit. The initial guidance disseminated on August 17, 2019, is withdrawn and replaced by this guidance. Additional updates will be provided as necessary.

The third country transit asylum bar IFR remains preliminarily enjoined in the Ninth Circuit and therefore USCIS personnel still cannot rely on the third country transit asylum bar IFR when conducting credible fear screening interviews for cases arising in the Ninth Circuit, or when adjudicating asylum applications within the Ninth Circuit. USCIS personnel should continue to follow the processes in place prior to implementation of the IFR for credible fear screenings and asylum adjudications in the Ninth Circuit. However, because the court granted a stay of the preliminary injunction outside of the Ninth Circuit, the third country transit asylum rule is effective as to:

- (1) All credible fear screenings that are conducted or remain pending after August 16, 2019, for cases arising outside the Ninth Circuit, and
- (2) All asylum applications filed on or after July 16, 2019, that remain pending after August 16, 2019, outside of the Ninth Circuit. \*\*As a reminder, for asylum applications that are pending after August 16, 2019 outside of the Ninth Circuit, the IFR would apply, but the bar at 8 CFR 208.13(c)(4) only applies to

DHS-19-1398-A-000329

an alien who enters, attempts to enter, or arrives in the United States across the southern land border on or after July 16, 2019, after transiting through at least one country outside the alien's country of last citizenship, nationality, or last habitual residence en route to the United States, unless an exception applies. For purposes of determining whether the injunction applies, the IFR should not apply to any CF determination or asylum adjudication in which: (1) the alien was apprehended in the jurisdiction of the Ninth Circuit (California, Arizona, Nevada, Oregon, Washington, Idaho, Montana, Alaska, Hawaii, Guam, Northern Mariana Islands) or (2) the alien is in the jurisdiction of the Ninth Circuit when the credible fear screening is conducted or the claim is adjudicated.

Should you have any questions or concerns, please direct through your chain of command. It is also recommended you consult the guidance attached to the e-mail from Asylum Division Chief John Lafferty on July 15, 2019 entitled *Interim Final Rule – Asylum Eligibility and Procedural Modifications*.

Thanks,

Ashley

Ashley Caudill-Mirillo

Deputy Chief

Asylum Division

Refugee, Asylum, and International Operations

FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 16 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

EAST BAY SANCTUARY COVENANT;  
AL OTRO LADO; INNOVATION LAW  
LAB; CENTRAL AMERICAN  
RESOURCE CENTER,

Plaintiffs-Appellees,

v.

WILLIAM P. BARR, Attorney General;  
UNITED STATES DEPARTMENT OF  
JUSTICE; JAMES MCHENRY, Director of  
the Executive Office for Immigration  
Review, in his official capacity;  
EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW; KEVIN K.  
MCALEENAN, Acting Secretary of  
Homeland Security, in his official capacity;  
U.S. DEPARTMENT OF HOMELAND  
SECURITY; KENNETH T. CUCCINELLI,  
Acting Director of the U.S. Citizenship and  
Immigration Services, in his official  
capacity; JOHN P. SANDERS, Acting  
Commissioner of U.S. Customs and Border  
Protection, in his official capacity; UNITED  
STATES CITIZENSHIP AND  
IMMIGRATION SERVICES; U.S.  
CUSTOMS AND BORDER  
PROTECTION; MATTHEW ALBENCE,  
Acting Director of Immigration and  
Customs Enforcement, in his official  
capacity; IMMIGRATION AND  
CUSTOMS ENFORCEMENT,

No. 19-16487

D.C. No. 3:19-cv-04073-JST  
Northern District of California,  
San Francisco

ORDER

Defendants-Appellants.

Before: TASHIMA, M. SMITH, and BENNETT, Circuit Judges.

Appellants seek a stay pending appeal of the district court’s July 24, 2019 order preliminarily enjoining the Department of Justice and Department of Homeland Security’s joint interim final rule, “Asylum Eligibility and Procedural Modifications” (the “Rule”), 84 Fed. Reg. 33,829 (July 16, 2019).<sup>1</sup>

The district court found that the Rule likely did not comply with the Administrative Procedure Act’s (APA) notice-and-comment and 30-day grace period requirements because Appellants did not adequately support invocation of the “good cause” and “foreign affairs” exemptions under the APA. *See* 5 U.S.C. § 553(a)(1), (b)(1)(B), (d)(3); *Buschmann v. Schweiker*, 676 F.2d 352, 357 (9th Cir. 1982) (good cause exemption “should be interpreted narrowly so that the exception will not swallow the rule” (internal citations omitted)); *Yassini v. Crosland*, 618 F.2d 1356, 1360 n.4 (9th Cir. 1980) (foreign affairs exemption “would become distended” if applied to immigration rules generally and requires showing that ordinary public noticing would “provoke definitely undesirable

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<sup>1</sup> The State of Arizona’s amicus brief in support of Appellants’ motion has been filed. The Professors of Immigration Law’s motion for leave to file an amicus brief in opposition to Appellants’ motion (Docket Entry No. 28) is granted, and the brief is filed.

international consequences”). We conclude that Appellants have not made the required “strong showing” that they are likely to succeed on the merits on this issue. *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987).<sup>2</sup>

Consequently, we deny the motion for stay pending appeal (Docket Entry No. 3) insofar as the injunction applies within the Ninth Circuit.<sup>3</sup>

We grant the motion for stay pending appeal insofar as the injunction applies outside the Ninth Circuit, because the nationwide scope of the injunction is not

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<sup>2</sup> Our finding that Appellants have not made a “strong showing” does not bind the merits panel in reviewing this aspect of the merits, as that is not the standard the merits panel will apply. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

<sup>3</sup> We do not assess Appellants’ remaining arguments as to likelihood of success on the merits and do not reach the remaining *Hilton* factors. *See Nken v. Holder*, 556 U.S. 418, 435 (2009) (stating that the likelihood of success on the merits factor is one of the “most critical” and must be established before considering the last two stay factors); *cf. California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018) (“Likelihood of success on the merits is the most important factor; if a movant fails to meet this threshold inquiry, we need not consider the other factors.” (internal quotation marks omitted) (quoting *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017))).

supported by the record as it stands.<sup>4</sup> *Cf. City and County of San Francisco v. Trump*, 897 F.3d 1225, 1243–45 (9th Cir. 2018).<sup>5</sup>

An injunction must be “narrowly tailored to remedy the specific harm shown.” *Id.* at 1244 (quoting *Bresgal v. Brock*, 843 F.2d 1163, 1170 (9th Cir. 1987)). We have upheld nationwide injunctions where such breadth was necessary to remedy a plaintiff’s harm. *See, e.g., id.; California v. Azar*, 911 F.3d 558, 582 (9th Cir. 2018) (“Although there is no bar against nationwide relief in federal district court . . . such broad relief must be *necessary* to give prevailing parties the

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<sup>4</sup> The dissent, without citing any authority, argues that “it is [not] within a motions panel’s province to parse the record for error at this stage” and accuses us of “[going] beyond the recognized authority of a motions panel” by granting the motion for a stay pending appeal insofar as the injunction applies outside the Ninth Circuit. We have two responses.

First, we did not have to “parse” the record for error. Appellants’ stay motion specifically argues that the district court erred in imposing a nationwide injunction. Moreover, the three sentences that the district court provided to support the imposition of a nationwide injunction—none of which explains why it believed a nationwide injunction was necessary in this case—make clear that it failed to undertake the analysis necessary before granting such broad relief.

Second, other motions panels of our court have reviewed the scope of injunctive relief granted by district courts. *See, e.g., E. Bay Sanctuary Covenant v. Trump*, No. 18-17274, 2018 WL 8807133, at \*24 (9th Cir. Dec. 7, 2018); *Hawaii v. Trump*, No. 17-17168, 2017 WL 5343014, at \*1 (9th Cir. Nov. 13, 2017). We think these decisions illustrate that it is indeed within our province—our duty, even—to review whether the district court abused its discretion in granting a nationwide injunction.

<sup>5</sup> The dissent criticizes our reliance on *Trump*, 897 F.3d 1225, because the procedural posture in this case is different. We recognize this difference as we cite *Trump* as an analogous case supporting our decision because, notwithstanding the different procedural posture, the issue in that case—whether the scope of the injunction was appropriate—is the same issue before us. *See id.* at 1244–45.

relief to which they are entitled.” (internal quotation marks and alterations omitted) (quoting *Bresgal*, 843 F.2d at 1170–71)). These are, however, “exceptional cases.” *Trump*, 897 F.3d at 1244. To permit such broad injunctions as a general rule, without an articulated connection to a plaintiff’s particular harm, would unnecessarily “stymie novel legal challenges and robust debate” arising in different judicial districts. *Id.*; see also *Azar*, 911 F.3d at 583 (“The Supreme Court has repeatedly emphasized that nationwide injunctions have detrimental consequences to the development of law and deprive appellate courts of a wider range of perspectives.”).

Here, the district court failed to discuss whether a nationwide injunction is necessary to remedy Plaintiffs’ alleged harm. Instead, in conclusory fashion, the district court stated that nationwide relief is warranted simply because district courts have the authority to impose such relief in some cases and because such relief has been applied in the immigration context. The district court clearly erred by failing to consider whether nationwide relief is necessary to remedy Plaintiffs’ alleged harms. And, based on the limited record before us, we do not believe a nationwide injunction is justified.

Our dissenting colleague believes that a nationwide injunction is appropriate simply because this case presents a rule that applies nationwide. That view, however, ignores our well-established rule that injunctive relief “must be tailored



to remedy the specific harm alleged.” *Lamb-Weston, Inc. v. McCain Foods, Ltd.*, 941 F.2d 970, 974 (9th Cir. 1991) (citations omitted). Indeed, were we to adopt the dissent’s view, a nationwide injunction would result any time an enjoined action has potential nationwide effects. Such an approach would turn broad injunctions into the rule rather than the exception. Under our case law, however, all injunctions—even ones involving national policies—must be “narrowly tailored to remedy the specific harm shown.” *Trump*, 897 F.3d at 1244 (quoting *Bresgal*, 843 F.2d at 1170).

We agree with our dissenting colleague that “time does not permit a full exploration of the merits of the ‘nationwide’ issue.” But whereas he believes that such a factor supports the granting of a nationwide injunction until a merits panel can address the case, we reach precisely the opposite conclusion. “National injunctions interfere with good decisionmaking by the federal judiciary.” Samuel L. Bray, *Multiple Chancellors: Reforming the National Injunction*, 131 Harv. L. Rev. 417, 461 (2017). They “deprive” other parties of “the right to litigate in other forums.” *Azar*, 911 F.3d at 583. Based on the briefing and limited record before us, and absent an explanation by the district court as to why a nationwide injunction is necessary to remedy Plaintiffs’ alleged harm in this case, we must grant the motion for stay pending appeal insofar as the injunction applies outside the Ninth Circuit.

Our dissenting colleague also argues that it is “perplexing” that the government’s failure to demonstrate a strong showing of likelihood of success on the merits “does not . . . require that a stay of the nationwide aspect of the injunction [] be denied.” That contention misses the mark, however, by conflating the merits of the government’s position with district court’s authority to issue a nationwide injunction. Whether Appellants have made a strong showing of likelihood of success on the merits entitling them to a stay of the preliminary injunction is a separate question from whether the scope of the injunction is appropriate. In *Azar*, for example, we affirmed the preliminary injunction because, among other things, we found that the plaintiffs were likely to succeed on their claim that the rules were invalid. 911 F.3d at 575–81. Despite our conclusion that the rules were likely invalid, however, we also determined that the injunction’s nationwide scope was not supported by the record. *Id.* at 584–85. *Azar* illustrates that, beyond examining the merits of a party’s arguments, a district court must separately analyze whether nationwide relief is “*necessary* to give prevailing parties the relief to which they are entitled” before issuing such an injunction. *Id.* at 582 (quoting *Bresgal*, 843 F.2d at 1170–71).

Our approach—granting a more limited injunction—allows other litigants wishing to challenge the Rule to do so. Indeed, several already have.<sup>6</sup> Litigation over the Rule’s lawfulness will promote “the development of the law and the percolation of legal issues in the lower courts” and allow the Supreme Court, if it chooses to address the Rule, to do so “[with] the benefit of additional viewpoints from other lower federal courts and [with] a fully developed factual record.”

Amanda Frost, *In Defense of Nationwide Injunctions*, 93 N.Y.U. L. REV. 1065, 1107–08 (2018).<sup>7</sup>

In sum, our decision to partially grant the stay simply upholds the law of our circuit by ensuring that injunctive relief is properly tailored to the alleged harm.<sup>8</sup>

While this appeal proceeds, the district court retains jurisdiction to further develop the record in support of a preliminary injunction extending beyond the

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<sup>6</sup> As Appellants point out, hours before the district court ruled here, a District of Columbia district court, presented with the same Rule, denied materially identical relief to organizations similar to the Plaintiffs here. See *CAIR v. Trump*, No. 1:19-CV-02117-TJK, 2019 WL 3436501 (D.D.C. July 24, 2019).

<sup>7</sup> Accord *United States v. Mendoza*, 464 U.S. 154, 160 (1984) (“[O]nly one final adjudication would deprive this Court of the benefit it receives from permitting several courts of appeals to explore a difficult question.”).

<sup>8</sup> Contrary to the dissent’s position, the fact that injunctive relief may temporarily cause the Rule to be administered inconsistently in different locations is not a sound reason for imposing relief that is broader than necessary. As we explain above, our law requires that injunctive relief be narrowly tailored to remedy the plaintiffs’ alleged harm, and it may only be broadened “if such breadth is necessary to give prevailing parties the relief to which *they* are entitled.” *Bresgal*, 843 F.2d at 1170–71 (emphasis added).

Ninth Circuit. *Cf. Trump*, 897 F.3d at 1245 (“Because the record is insufficiently developed as to the question of the national scope of the injunction, we vacate the injunction to the extent that it applies outside California and remand to the district court for a more searching inquiry into whether this case justifies the breadth of the injunction imposed.”).

The opening brief is due September 3, 2019; the answering brief is due October 1, 2019; and the optional reply is due within 21 days after service of the answering brief. This case will be placed on a December 2019 argument calendar.

FILED

*East Bay Sanctuary Covenant v. Barr*, No. 19-16487

AUG 16 2019

TASHIMA, Circuit Judge, concurring in part and dissenting in part:

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

I concur in the portion of the order denying the motion for stay pending appeal [Dkt. 3] insofar as the injunction applies within the Ninth Circuit, but dissent from the balance of the order.

Acting as a motions panel, all we have before us is the government’s motion for a stay. I do not believe that it is within a motions panel’s province to parse the record for error at this stage, which is what the majority does in concluding that “the nationwide scope of the injunction is not supported by the record as it stands.” (Citation omitted.) But the majority then goes beyond the recognized authority of a motions panel by concluding that “[t]he district court clearly erred by failing to consider whether nationwide relief is necessary to remedy Plaintiffs’ alleged harms,” and, on that basis “grant[s] the motion for stay pending appeal insofar as the injunction applies outside the Ninth Circuit.” It then, in the penultimate paragraph of the Order, in effect, remands the case to the district court for a partial do-over:

While this appeal proceeds, the district court retains jurisdiction to further develop the record in support of a preliminary injunction extending beyond the Ninth Circuit.<sup>1</sup>

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<sup>1</sup> The majority relies on *City & County of San Francisco v. Trump*, 897 F.3d 1225, 1245 (9th Cir. 2018), but the citation is completely inapposite. That  
(continued...)

But vacating and remanding it to the district court for a more searching inquiry into whether this case justifies the breadth of the injunction is indubitably an action within the province of a merits panel—not a motions panel.<sup>2</sup>

At the same time, the order places the merits briefing (of this appeal) on an expedited schedule for placement “on a December 2019 argument calendar.” What issues are the parties expected to brief, assuming that parallel proceedings in the district court are still ongoing? And if the district court completes its second-look remand proceedings within the next few weeks or months and issues a modified injunction, or issues the same nationwide injunction, but one which is supported by supplemental findings of fact, should the parties seek to file supplemental briefs on the newly-raised and newly-decided issues in this appeal to the merits panel assigned to this appeal, or should a new notice of appeal be filed, giving rise to a

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<sup>1</sup>(...continued)

was an opinion by a merits panel charged with deciding the appeal, not a motions panel charged with deciding a stay motion, and the merits panel did exactly what it was charged with, *i.e.*, it decided the appeal; it “AFFIRMED in part; VACATED in pari; and REMANDED.” *Id.* We, as a motions panel, have no equivalent charge.

<sup>2</sup> Because the issue has been decided, applying the clear error standard of review, the injunction vacated and remanded to the district court, the merits panel, presumably has been deprived of deciding this issue. The majority’s assertion, in footnote 2, that its action “does not bind the merits panel,” is an empty promise. Deciding the case on the merits, vacating and remanding the injunction is not in accord with the dictates of *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

new appeal? These are some of the new and difficult questions raised by the majority's split-decision.

While time does not permit a full exploration of the merits of the “nationwide” issue, some problems posed by the majority's Ninth Circuit-only injunction are apparent. Perhaps, the district court did not make detailed findings in support of a nationwide injunction because the need for one in the circumstances of this case is obvious. For starters, the joint interim final rule, “Asylum Eligibility and Procedural Modifications,” will affect asylum applications across the breadth of the southern border. Should asylum law be administered differently in Texas than in California? These issues and problems illustrate why tinkering with the merits on a limited stay motion record can be risky. And it is why such issues are reserved for the more deliberate examination that a merits panel can give them.

There is also a glaring inconsistency—a contradiction—in the majority's split-the-baby approach. If, as the majority and I agree, the government's failure to meet the first *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987), factor—likelihood of success on the merits, because of its failure to comply with the APA—means that its stay motion with respect to the preliminary injunction's application within the Ninth Circuit fails, it is perplexing to me why that failure does not infect the balance of its stay motion and require that a stay of the nationwide aspect of the

injunction also be denied.<sup>3</sup> The majority, in its rush to address the merits of the nationwide aspect of the injunction, simply elides this contradiction.

Because I would not peel off part of the preliminary injunction and remand that portion to the district court, “[b]ecause the record is insufficiently developed as to the question of the national scope of the injunction” (quoting *San Francisco v. Trump*, 897 F.3d at 1245), while retaining jurisdiction over the remainder, I dissent from the remand<sup>4</sup> of the nationwide scope of the preliminary injunction to the district court.

I would simply deny the stay motion.

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<sup>3</sup> The majority’s answer to this point is to state that “Whether Appellants have made a strong showing of likelihood of success on the merits entitling them to a stay of the preliminary injunction is a separate question from whether the scope of the injunction is appropriate.” But that doesn’t answer (or even try to answer) my question of why the government’s failure to meet the likelihood-of-success factor doesn’t doom its motion to stay the nationwide portion of the injunction, as well as the California portion.

<sup>4</sup> The Order does not use the word “remand,” but the majority does not quarrel with the obvious inference from its statement that “the district court retains jurisdiction to further develop the record in support of a preliminary injunction extending beyond the Ninth Circuit,” is, in substance, a remand.



|                            |                             |                     |                           |
|----------------------------|-----------------------------|---------------------|---------------------------|
| _____                      | _____                       | _____               | _____                     |
| District Office Code       | Asylum Office Code          | Alien's File Number | Alien's Last/ Family Name |
| _____                      | _____                       | _____               | _____                     |
| Asylum Officer's Last Name | Asylum Officer's First Name | Alien's Nationality | _____                     |

*All statements in italics must be read to the applicant*

**SECTION I:**

**INTERVIEW PREPARATION**

- 1.1 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.2 \_\_\_\_\_  
Date of arrival [MM/DD/YY] Port of arrival
- 1.3 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.4 \_\_\_\_\_  
Date of detention [MM/DD/YY] Place of detention
- 1.5 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.6 \_\_\_\_\_  
Date of AO orientation [MM/DD/YY] If orientation more than one week from date of detention, explain delay
- 1.7 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.8 \_\_\_\_\_  
Date of interview [MM/DD/YY] Interview site
- 1.9 ☐ Applicant received and signed **Form M-444** and relevant *pro bono* list on \_\_\_\_\_  
Date signed [MM/DD/YY]
- 1.10 Does applicant have consultant(s)? ☐ Yes ☐ No
- 1.11 If yes, consultant(s) name, address, telephone number and relationship to applicant  
\_\_\_\_\_  
\_\_\_\_\_
- 1.12 Persons present at the interview (check which apply)
- 1.13 ☐ Consultant(s)
- 1.14 ☐ Other(s), list: \_\_\_\_\_
- 1.15 ☐ No one other than applicant and asylum officer
- 1.16 Language used by applicant in interview:
- 1.17 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.18 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.19 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.20 ☐ Interpreter **was not changed** during the interview
- 1.21 ☐ Interpreter **was changed** during the interview for the following reason(s):
- 1.22 ☐ Applicant requested a female interpreter replace a male interpreter, or *vice versa*
- 1.23 ☐ Applicant found interpreter was not competent 1.24 ☐ Applicant found interpreter was not neutral
- 1.25 ☐ Officer found interpreter was not competent 1.26 ☐ Officer found interpreter was not neutral
- 1.27 ☐ Bad telephone connection
- 1.28 ☐ Asylum officer read the following paragraph to the applicant at the beginning of the interview:

*The purpose of this interview is to determine whether you may be eligible for asylum or protection from removal to a country where you fear persecution or torture. I am going to ask you questions about why you fear returning to your country or any other country you may be removed to. It is very important that you tell the truth during the interview and that you respond to all of my questions. This may be your only opportunity to give such information. Please feel comfortable telling me why you fear harm. U.S. law has strict rules to prevent the disclosure of what you tell me today about the reasons why you fear harm. The information you tell me about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances. The statements you make today may be used in deciding your claim and in any future immigration proceedings. It is important that we understand each other. If at any time I make a statement you do not understand, please stop me and tell me you do not understand so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain.*

Alien's File Number:

**SECTION II:**

**BIOGRAPHIC INFORMATION**

2.1 \_\_\_\_\_  
Last Name/ Family Name [ALL CAPS]

2.2 \_\_\_\_\_ 2.3 \_\_\_\_\_  
First Name Middle Name

2.4 \_\_\_\_/\_\_\_\_/\_\_\_\_ 2.5 Gender ☐ Male ☐ Female  
Date of birth [MM/DD/YY]

2.6 \_\_\_\_\_  
Other names and dates of birth used

2.7 \_\_\_\_\_ 2.8 \_\_\_\_\_  
Country of birth Country (countries) of citizenship (list all)

2.9 \_\_\_\_\_  
Address prior to coming to the U.S. (List Address, City/Town, Province, State, Department and Country).

2.10 \_\_\_\_\_ 2.11 \_\_\_\_\_ 2.12 \_\_\_\_\_  
Applicant's race or ethnicity Applicant's religion All languages spoken by applicant

2.13 Marital status: ☐ Single ☐ Married ☐ Legally separated ☐ Divorced ☐ Widowed

2.14 Did spouse arrive with applicant? ☐ Yes ☐ No

2.15 Is spouse included in applicant's claim? ☐ Yes ☐ No

2.16 If currently married (including common law marriage) list spouse's name, citizenship, and present location (if with applicant, provide A-Number):  
\_\_\_\_\_  
\_\_\_\_\_

2.17 Children: ☐ Yes ☐ No

2.18 List any children (Use the continuation section to list any additional children):

| Date of birth<br>(MM/DD/YY) | Name  | Citizenship | Present location (if w/PA,<br>list A-Numbers) | Did child<br>arrive with<br>PA?<br><input type="checkbox"/> Yes <input type="checkbox"/> No | Is child<br>included in<br>PA's claim?<br><input type="checkbox"/> Yes <input type="checkbox"/> No |
|-----------------------------|-------|-------------|-----------------------------------------------|---------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |

Alien's File Number:

2.19 Does applicant claim to have a medical condition (physical or mental), or has the officer observed any indication(s) that a medical condition exists? If YES, answer questions 2.20 and 2.21 and explain below. ☐ Yes ☐ No

2.20 Has applicant notified the facility of medical condition? ☐ Yes ☐ No

2.21 Does applicant claim that the medical condition relates to torture? ☐ Yes ☐ No

2.22 Does the applicant have a relative, sponsor or other community ties, including spouse or child already listed above? ☐ Yes ☐ No

2.23 If YES, provide information on relative or sponsor (use continuation section, if necessary):

Name

Relationship

Address

Telephone Number

☐ Citizen ☐ Legal Permanent Resident ☐ Other

**SECTION III:**

**CREDIBLE FEAR INTERVIEW**

**The following notes are not a verbatim transcript of this interview.**

**These notes are recorded to assist the individual officer in making a credible fear determination and the supervisory asylum officer in reviewing the determination.**

**There may be areas of the individual's claim that were not explored or documented for purposes of this threshold screening.**

The asylum officer must elicit sufficient information related to both credible fear of persecution and credible fear of torture to determine whether the applicant meets the threshold screening. Even if the asylum officer determines in the course of the interview that the applicant has a credible fear of persecution, the asylum officer must still elicit any additional information relevant to a fear of torture. Asylum officers are to ask the following questions and may use the continuation sheet if additional space is required. If the applicant replies YES to any question, the asylum officer must ask follow-up questions to elicit sufficient details about the claim in order to make a credible fear determination.

3.1 a. *Have you or any member of your family ever been mistreated or threatened by anyone in any country to which you may be returned?* ☐ Yes ☐ No

b. *Do you have any reason to fear harm from anyone in any country to which you may be returned?*

☐ Yes ☐ No

c. If YES to questions *a* and/or *b*, was it or is it because of any of the following reasons? (Check each of the following boxes that apply).

☐ Race ☐ Religion ☐ Nationality ☐ Membership in a particular social group ☐ Political Opinion

Alien's File Number:

- 3.2 ☐ At the conclusion of the interview, the asylum officer must read the following to applicant:

*If the Department of Homeland Security determines you have a credible fear of persecution or torture, or, where applicable, a reasonable fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. If the asylum officer determines that you do not have a credible fear of persecution or torture, and, where applicable, you do not have a reasonable fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and, where applicable, you do not have a reasonable fear of persecution or torture, you do not request review, you **may be removed** from the United States as soon as travel arrangements can be made. Do you have any questions?*

- 3.3 ☐ At the conclusion of the interview, the asylum officer must read a summary of the claim, consisting of the responses to Questions 3.1 a-c and information recorded in the Additional Information/Continuation section, to applicant.

\*\*\*\*Typed Question and Answer (Q&A) interview notes and a summary and analysis of the claim must be attached to this form for all negative credible fear decisions. These Q&A notes must reflect that the applicant was asked to explain any inconsistencies or lack of detail on material issues and that the applicant was given every opportunity to establish a credible fear.

#### SECTION IV:

#### CREDIBLE FEAR FINDINGS

##### A. Credible Fear Determination (and reasonable fear determination, where applicable):

###### Credibility

- 4.1 ☐ Applicant found credible.  
4.2 ☐ Applicant found **not** credible.

###### Nexus

- 4.3 ☐ Race 4.4 ☐ Religion 4.5 ☐ Nationality 4.6 ☐ Membership in a Particular Social Group

(Define the social group): \_\_\_\_\_

- 4.7 ☐ Political Opinion 4.8 ☐ Coercive Family Planning [CFP] 4.9 ☐ No Nexus

###### Credible Fear Finding

- 4.10 ☐ Credible fear (or in the case of an alien determined to have no credible fear of persecution because he or she is barred from asylum pursuant to 8 CFR 208.13(c)(4), reasonable fear) of **persecution** established.

OR

- 4.11 ☐ Credible fear (or in the case of an alien determined to have no credible fear of persecution because he or she is barred from asylum pursuant to 8 CFR 208.13(c)(4), reasonable fear) of **torture** established.

OR

- 4.12 ☐ No fear of persecution or torture established.

##### B. Possible Bars:

- 4.13 ☐ Applicant could be subject to a bar(s) to asylum or withholding of removal (check the box(es) that applies and explain on the continuation sheet):

- 4.14 ☐ Particularly Serious Crime 4.15 ☐ Security Risk 4.16 ☐ Aggravated Felon  
4.17 ☐ Persecutor 4.18 ☐ Terrorist 4.19 ☐ Firmly Resettled  
4.20 ☐ Serious Non-Political Crime Outside the United States  
4.21 ☐ Applicant does **not** appear to be subject to a bar(s) to asylum or withholding of removal.

Alien's File Number:

**C. Identity:**

- 4.22 ☐ Applicant's identity was determined with a reasonable degree of certainty (check the box(es) that applies):
- 4.23 ☐ Applicant's own credible statements. (If testimony is credible overall, this will suffice to establish the applicant's identity with a reasonable degree of certainty).
- 4.24 ☐ Passport which appears to be authentic.
- 4.25 ☐ Other evidence presented by applicant or in applicant's file (List): \_\_\_\_\_
- 4.26 ☐ Applicant's identity was **not** determined with a reasonable degree of certainty. (Explain on the continuation sheet.)

**SECTION V: ASYLUM OFFICER / SUPERVISOR NAMES AND SIGNATURES**

- |                                                      |                                         |                                                         |
|------------------------------------------------------|-----------------------------------------|---------------------------------------------------------|
| 5.1 _____<br>Asylum officer name and ID CODE (print) | 5.2 _____<br>Asylum officer's signature | 5.3 ____/____/____<br>Decision date                     |
| 5.4 _____<br>Supervisory asylum officer name         | 5.5 _____<br>Supervisor's signature     | 5.6 ____/____/____<br>Date supervisor approved decision |

**ADDITIONAL INFORMATION/CONTINUATION**

Alien is barred from asylum pursuant to 8 CFR 208.13(c)(4) and therefore the alien has not established a significant possibility of establishing eligibility for asylum and has received a negative credible fear of persecution determination. Alien was then screened for potential entitlement to withholding under INA 241 or CAT protection under a "reasonable possibility of persecution" and "reasonable possibility of torture" standard.

**Memo to File**

**For Alien**

**Barred From Asylum Pursuant to 8 CFR 208.13(c)(4)**

From: **[Asylum Office Name]**

RE: **[Alien name, A#]**

**[Dependent name, A#]**

At the interview:

- The Asylum Officer informed the individual that the officer had determined, based upon the individual's testimony and the other evidence in the record, that the individual is barred from asylum under 8 CFR § 208.13(c)(4), and therefore unable to establish a credible fear with respect to his or her application for asylum.
- As a result of the above determination, the Asylum Officer read the following paragraph to the individual:

The purpose of the remainder of the interview is to determine if you have a reasonable fear of persecution or torture. If it is determined that you have a reasonable possibility of being persecuted or tortured in the country to which you will be ordered removed, you will receive a Notice to Appear for a hearing in immigration court for consideration of your claim for withholding of removal under section 241(b)(3) of the Act, or for withholding or deferral of removal under the Convention Against Torture. If it is determined that you do not have a reasonable possibility of being persecuted or tortured, then you may ask to have an immigration judge review that decision. During that immigration judge review, you may also request review of the determination that you do not have a credible fear of persecution because you are barred from asylum under 8 CFR § 208.13(c)(4).



# U.S. Citizenship and Immigration Services

## Reasonable Fear



U.S. Citizenship  
and Immigration  
Services

Last Updated: August 2019

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1

## What is Reasonable Fear (“RF”)?

Applicant must establish a **reasonable fear** of

PERSECUTION

*or*

TORTURE

### STANDARD OF PROOF

Reasonable Possibility



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## Standard of Proof: Reasonable Possibility

- The “**reasonable possibility**” standard is the same standard required to establish eligibility for asylum (the “**well-founded fear**” standard)
- The “reasonable possibility” standard is lower than the “more likely than not standard” required to establish eligibility for withholding of removal or deferral of removal (under CAT).
- It is higher than the standard of proof required to establish a “credible fear” of persecution.



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## RF: Past Persecution Refresher

- Elements:
  - Harm
  - Nexus (“on account of”)
    - Race, Religion, Nationality, Membership in a Particular Social Group, Political Opinion
  - State Action (Government Unable or Unwilling to Control)
- Presumption → Reasonable Fear of Future Persecution
  - Fundamental Change in Circumstances
  - Internal Relocation (safe and reasonable)
- NO humanitarian/discretionary factors:
  - No Other Serious Harm
  - No Severity of Past Harm (*Chen*)



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## RF: Future Persecution Refresher

- Elements:
  - Harm
  - Possession
  - Awareness
  - Capability
    - State Action (Government Unable or Unwilling to Control)
  - Inclination
    - (Nexus – “on account of”)
  - Internal Relocation (safe and reasonable)



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## RF: Past Torture Refresher

- Elements:
  - Specific Intent
  - Harm (Severe Physical or Mental Pain or Suffering)
  - State Action (Public Official or Other Person Acting in an Official Capacity – Infliction, Instigation, Consent, or Acquiescence)
  - Custody or Physical Control
  - Not Pursuant to Lawful Sanctions
- No Presumption



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## RF: Future Torture Refresher

- Elements:
  - Specific Intent
  - Harm (Severe Physical or Mental Pain or Suffering)
  - State Action (Public Official or Other Person Acting in an Official Capacity – Infliction, Instigation, Consent, or Acquiescence)
  - Custody or Control
  - Not Pursuant to Lawful Sanctions
- Evidence to Consider
  - Past Torture
  - Internal Relocation (safe and reasonable)
  - Gross, Flagrant, Mass Human Rights Violations
  - Other Relevant Information



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U.S. Citizenship  
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# Third-Country Transit bar



**Guidance for Asylum Officers and  
Asylum Office Staff**

07/16/2019

# Roadmap



U.S. Citizenship  
and Immigration  
Services

- Background/Legal Framework
- Overview of Third-Country Transit Bar
- Exceptions to Bar
- Revised Credible Fear Process
- Mandatory Bar Determination
- Screening Interview and Evidence
- Case Processing
- Post-Decision and Service

FOUO

2

# Background/Legal Framework



U.S. Citizenship  
and Immigration  
Services

- INA §§ 208(b)(2)(C), (d)(5)(B) – Delegation of authority to Attorney General and Secretary of Homeland Security ("Secretary") to promulgate regulations establishing additional bars to asylum
- 8 CFR § 208.13(c)(4) – "Notwithstanding the provisions of 8 CFR 208.15, any alien who enters, attempts to enter, or arrives in the United States across the southern land border on or **after July 16, 2019**, shall be found ineligible for asylum
- 8 CFR § 208.30(e)(5) – "If the alien is found to be an alien described as ineligible for asylum in 8 CFR 208.13(c)(4), then the asylum officer shall enter a negative credible-fear determination with respect to the alien's application for asylum. The Department shall nonetheless place the alien in proceedings under section 240 of the Act for consideration of the alien's claim for withholding of removal under section 241(b)(3) of the Act, or for withholding or deferral of removal under the Convention Against Torture, if the alien establishes, respectively, a reasonable fear of persecution or torture. "

FOUO

3



# Overview of Bar



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and Immigration  
Services

- With limited exceptions, aliens who enter or attempt to enter the United States across the southern border after failing to apply for protection in a country through which they transited en route to the United States are ineligible for asylum.
- Applies to affirmative asylum applications and credible fear screenings
- Does not modify withholding or deferral of removal proceedings
- Applies only prospectively to aliens who enter or arrive in the United States on or after effective date of this rule.
- Exceptions may apply

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4

# Exceptions to Bar



U.S. Citizenship  
and Immigration  
Services

- A) Applied for protection in at least one country en route to the United States and received final judgment denying protection in such country
- B) Found to be a "victim of a severe form of trafficking in persons" (8 CFR § 214.11)
- C) En route to the United States only transited through countries were, at the time of transit, not a party to the Refugee Convention/Protocol, or the Convention Against Torture (CAT)

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5

## Exception A: Application for Protection



U.S. Citizenship  
and Immigration  
Services

- The alien demonstrates that:
  - He or she applied for protection from persecution or torture in at least one country outside of the alien's country of nationality or last habitual residence through which the alien transited en route to the U.S., *and*
  - The alien received a final judgment denying the alien protection in such country.

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6

## Exception B: Trafficking



U.S. Citizenship  
and Immigration  
Services

- The alien demonstrates that:
  - He or she satisfies the definition of “victim of a severe form of trafficking in persons” provided by 8 CFR 214.11

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## Exception C: Non-Party Transit Countries



U.S. Citizenship  
and Immigration  
Services

- The alien demonstrates that:
  - The only transit countries through which the alien transited en route to the U.S., at the time of transit, were not parties to the
    - 1951 UN Convention Relating to the Status of Refugees;
    - 1967 Protocol Relating to the Status of Refugees; or
    - UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.
- Note: Mexico is a party to the Conventions and Protocol

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8

## Revised CF Screening for Aliens Subject to the New Asylum Bar



U.S. Citizenship  
and Immigration  
Services

- Under amended 8 CFR 208.30(e)(5), any alien placed into expedited removal who is referred for a CF screening and who is determined to be ineligible for asylum under the new 8 CFR 208.13(c)(4) shall
  - Receive a negative credible fear determination with respect to the alien's intention to apply for asylum; and
  - Have any claim to eligibility for withholding of removal or protection under CAT considered under the reasonable possibility reasonable fear standard **instead of** the significant possibility credible fear standard

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## Credible Fear Process – Jurisdiction and Family Cases



U.S. Citizenship  
and Immigration  
Services

- Jurisdiction: no change
  - Interim Final Rule does not alter the referral process
  - Asylum Office must receive all jurisdictional documents listed at CFPM III.B. prior to adjudicating the case
  - AO and SAO must confirm that the Asylum Division has proper jurisdiction in each case
  
- Family Cases: no change

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## Credible Fear Process—Application of Bar



U.S. Citizenship  
and Immigration  
Services

- Determine if bar applies by completing Third-Country Transit Bar Worksheet
  - *Note: If alien did not enter or attempt to enter the United States across the southern border on or after implementation date, then bar does not apply. Do not fill out a Third-Country Transit Bar Worksheet.*
- If entered by land from Mexico, bar applies unless exception found
- Ensure record supports determination alien entered, attempted to enter, or arrived in the United States *across the southern land border*
- Will need to elicit testimony to determine if bar applies and if there is exception
- Elicit enough testimony to make a determination whether the applicant is a trafficking victim if bar applies and no other exception available to alien

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## Credible Fear Process – Application of Bar - Worksheet



U.S. Citizenship  
and Immigration  
Services

- Did alien enter or attempt to enter the United States across the southern border on or after implementation date?
  - *I-213, I-867A/B, other documents*
  - *Interview*
- Did the individual transit through any country apart from his or her country of nationality (or last habitual residence) en route to the United States?
  - *I-213, I-867A/B, other documents*
  - *Interview*

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## Credible Fear Process– Application of Bar - Worksheet



U.S. Citizenship  
and Immigration  
Services

- If alien transited through at least one country en route that is a party to the Refugee Convention/Protocol or CAT, did alien apply for and was s/he denied protection in at least one such country?
  - *If yes → Exception A found*
- Did the alien establish that s/he meets the definition of "victim of a severe form of trafficking in persons"?
  - *If yes → Exception B found*
- The only countries through which the alien transited en route to the United States, at the time of the transit, were not parties a party to the Refugee Convention/Protocol or CAT?
  - *If yes → Exception C found*

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## Credible Fear Process– Application of Bar - Worksheet



U.S. Citizenship  
and Immigration  
Services

- Conduct interview to determine if bar applies and whether there is an exception
- Complete Third-Country Transit Bar Worksheet
- If no exception applies, complete Orientation Memo to File and proceed with RF interview
- Complete applicable CF Checklist

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# Credible Fear Process – CF Checklist



U.S. Citizenship  
and Immigration  
Services

- If bar does not apply because the alien is eligible for exception
  - → use *Credible Fear Checklist 1 (dated 5.6.19)*
- If bar does apply because no exception is available
  - → use *Credible Fear Checklist 3 (Where a determination is made that the bar applies, limits screening to solely determine eligibility for withholding of removal and protection under the Convention Against Torture using the "reasonable possibility" standard)*
- Note: Credible Fear Checklist 2 relates to 8 CFR 208.13(c)(3) (EWI proclamation)

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# Screening Interview and Evidence



U.S. Citizenship  
and Immigration  
Services

- As always, will need to determine if applicant is credible as to both bar determination and screening determination
- If bar applies → reasonable possibility standard
- If bar does not apply or bar applies and there is an exception → significant possibility standard

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# Case Processing



U.S. Citizenship  
and Immigration  
Services

- Orientation Memo to File: When the AO determines that the bar applies, the adjudicator must explain to the alien that he or she will be screened according to the reasonable possibility standard and complete and memo to file.
- Note: Orientation Memo to File is not required if the alien is not subject to the bar or if the individual establishes an exception to the bar.

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# Case Processing



U.S. Citizenship  
and Immigration  
Services

## ■ Forms:

- Use I-870 dated 7.16.19 for all cases
- On p. 5, only keep the paragraph under "additional information / continuation" when the individual is barred and no exceptions apply. Delete it for all other situations.
- Orientation Memo to File for individuals who are subject to the bar
- When the bar applies, use I-869A instead of I-869 to document negative determinations
- NTA for all positive determinations, regardless of whether bar applies

## ■ Global:

- If individual is barred: select special group code **BAR - 13(c)(4)**
- If individual establishes an exception to the bar: select special group code:
  - **NO BAR – Protection Denied**
  - **NO BAR - Trafficking**
- NOTE: if individual is not subject to the bar do not select either special group code

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# Post-Interview and Service



U.S. Citizenship  
and Immigration  
Services

- Include in File
  - *Third-Country Transit Bar Worksheet should be placed in the file*
  - *Orientation Memo to File should be placed in the file*
- No change to service of determination otherwise
- Additional guidance
  - *Check box 1 on I-863*

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Guidance on electronically signing PDFs is available here:

<https://helpx.adobe.com/acrobat/11/using/signing-pdfs.html>.

Provide Assessment Worksheet and Assessment Notice to CBP.





| NOT SUBJECT TO 208.13(c)(4) Bar                                                                                        | SUBJECT TO 208.13(c)(4) Bar                        |
|------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| M-444                                                                                                                  | M-444 + Memo to File                               |
| I-870 dated 7.16.19                                                                                                    | I-870 dated 7.16.19                                |
| Global: If individual is subject to the bar but establishes an exception, select special group code "no bar - 3(c)(4)" | Global: Select special group code "bar - 13(c)(4)" |
| Credible Fear Standard                                                                                                 | Reasonable Fear Standard (no Chen/OSH)             |
| Screen for asylum, withholding, CAT                                                                                    | Screen for withholding and CAT                     |
| Checklist 1                                                                                                            | Checklist 3                                        |
| Positive Determination: I-862 (NTA)                                                                                    | Positive Determination: I-862 (NTA)                |
| Negative Determination: I-869 + I-863                                                                                  | Negative Determination: I-869A + I-863             |
| Flag other possible mandatory bars                                                                                     | Flag other possible mandatory bars                 |

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## Additional Resources



U.S. Citizenship  
and Immigration  
Services

- Trafficking Lesson Plan
- RAIO Research Unit ECN country pages
- Other Asylum and RAIO Lesson Plans

FOUO

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Klayman, Amy S

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**From:** Klayman, Amy S  
**Sent:** Wednesday, August 21, 2019 9:05 AM  
**To:** Rodriguez, Maria V (Vicky); Walker, Jonathan S; Hanson, Greta E; Paradis, Alicia M (Ali); Miami Asylum Training; McPherson, Yaniece A; Garrett, Natalie M  
**Cc:** Miami Asylum SAPSO; Miami Asylum SAO; Papazian, Varsenik L; Pueschel, Tracy W; Aguilar, Kimberly M; Timothee, Fritz G  
**Subject:** FW: Interim Final Rule and CF for USBP  
**Attachments:** Orientation memo to file July 16 2019.docx; Form I-869A July 16 2019.docx; CF Checklist 3 (effective 7.16.19).docx; 208.13(c)(4) Mandatory Bar Worksheet 7.16.19 Updated.docx; I-870 Annotated 7.16.19.doc; Reasonable Fear Standard of Proof and Eligibility Overview Slides August 2019.pptx; Third Country Asylum Bar Training 2019-07-16 updated.pptx; FW: Amended Guidance on the Interim Final Rule and the 9th Circuit Injunction .msg

Forwarding additionally and specifically to the ZHN SAPSOs and the TOs. This training material designed for USBP will be useful to all, as RF training is mandated for all APSOs adjudicating IFR cases. (See highlighted section in John Lafferty's message, below. This requirement has also been included in other recent messages from HQ.)

**TOs—As soon as possible, please schedule and conduct RF training at ZMI for APSOs working on ZHN Remote who have not yet been RF trained.** Please coordinate with the ZHN Remote SAPSOs so that they can rearrange the ZHN Remote interview schedule. This training does not need to take place during our regularly scheduled Tuesday afternoon training slot. RF training for APSOs at BTC/Krome should be conducted on-site by the SAPSOs and experienced AOs assigned to the facilities.

Thanks,

Amy

**From:** Aguilar, Kimberly M <Kimberly.M.Aguilar@uscis.dhs.gov>  
**Sent:** Wednesday, August 21, 2019 9:12 AM  
**To:** Klayman, Amy S <Amy.S.Klayman@uscis.dhs.gov>; Timothee, Fritz G <Fritz.G.Timothee@uscis.dhs.gov>; McPherson, Yaniece A <Yaniece.A.McPherson@uscis.dhs.gov>; Garrett, Natalie M <natalie.m.garrett@uscis.dhs.gov>  
**Cc:** Papazian, Varsenik L <Varsenik.L.Papazian@uscis.dhs.gov>; Miami Asylum SAPSO <Miami-Asylum-SAPSO@uscis.dhs.gov>; Miami Asylum SAO <MiamiAsylumSAO@uscis.dhs.gov>; Pueschel, Tracy W <Tracy.L.Pueschel@uscis.dhs.gov>  
**Subject:** FW: Interim Final Rule and CF for USBP

Good morning All—

Please see the message below and attachments.

---

Kimberly Aguilar  
Deputy Director, Miami Asylum Office  
Citizenship and Immigration Services  
Phone:   (b)(6)

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**From:** Alexander, Shannon <[shannon.alexander@uscis.dhs.gov](mailto:shannon.alexander@uscis.dhs.gov)>

**Sent:** Tuesday, August 20, 2019 6:25 PM

**To:** RAIO - Asylum Field Office Managers <[RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov](mailto:RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov)>; RAIO - Asylum HQ Leadership <[RAIO-AsylumHQLeadership@uscis.dhs.gov](mailto:RAIO-AsylumHQLeadership@uscis.dhs.gov)>

**Cc:** Beighley, Tracy L <[tracy.l.beighley@uscis.dhs.gov](mailto:tracy.l.beighley@uscis.dhs.gov)>

**Subject:** Interim Final Rule and CF for USBP

**FOR INTERNAL USE ONLY**

Good Evening Everyone,

Following up on the recent Ninth Circuit decision *East Bay v. Barr*, No. [19-16487](#) (9th Cir. Aug. 16, 2019) (*East Bay II*), we wanted to provide you with resources to assist any CBP Agents who may be screening non-Ninth Circuit cases where the IFR is implicated as CBP officers have not received formal training in RF.

This includes the following:

- Asylum Division Deputy Chief Ashley Caudill-Mirillo's 20 August 2019 email regarding IFR
- Asylum Division Chief John Lafferty's 15 July 2019 email regarding the IFR (pasted below)
- Orientation Memo to File
- Form I-869A
- CF Checklist 3
- 208.13(c)(4) Mandatory Bar Worksheet
- I-870 Annotated
- Third Country Asylum Bar Training PowerPoint
- Reasonable Fear Standard of Proof and Eligibility Overview Slides (Note: This PowerPoint contains the most relevant slides to your adjudication, which have been excerpted from the most recent RF training conducted for asylum officers)

Additionally, the following Lesson Plans may be helpful:

- *Reasonable Fear* (except sections III – Jurisdiction, and VII Prior Determination on the Merits):  
<https://ecn.uscis.dhs.gov/team/raio/PerMgt/Training/Lesson%20Plans/Forms/ASYview.aspx>
- *Trafficking*:  
<https://ecn.uscis.dhs.gov/team/raio/PerMgt/Training/Lesson%20Plans/Forms/RAIOonly.aspx>

At a minimum, please forward these materials to any CBP officers who are assigned to your office, make sure they have time to review these materials, and ask them to send any questions to their assigned Supervisory Asylum Officer and/or the local Training Officer.

Offices have flexibility on the manner of delivery and communication of this guidance and should take into account any localized needs and limitations.

Best,

**Shannon Alexander**

Asylum Officer – Acting Training Branch Chief

Asylum Training Division

DHS/USCIS/RAIO

Cube: [REDACTED]

Cell: [REDACTED] (b)(6)

**From:** Lafferty, John L <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)>

**Sent:** Monday, July 15, 2019 8:38 PM

**To:** RAIO - Asylum Field Office Managers <[RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov](mailto:RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov)>; RAIO - Asylum HQ <[RAIO-Asylum@uscis.dhs.gov](mailto:RAIO-Asylum@uscis.dhs.gov)>; RAIO - Asylum Field Office Staff <[RAIO-Test@uscis.dhs.gov](mailto:RAIO-Test@uscis.dhs.gov)>

**Cc:** RAIO - Executive Leadership <[RAIO-ExecutiveLeadership@uscis.dhs.gov](mailto:RAIO-ExecutiveLeadership@uscis.dhs.gov)>

**Subject:** Interim Final Rule - Asylum Eligibility and Procedural Modifications

Asylum Division colleagues,

Earlier today, a joint Department of Justice and Department of Homeland Security Interim Final Rule (IFR) titled, Asylum Eligibility and Procedural Modifications, was posted by the Federal Register for public inspection. The new rule is scheduled to be officially published in the Federal Register and go into effect tomorrow, July 16, 2019. Below is a summary of what the regulation says and how it will impact our work going forward:

Aliens covered by the IFR

Under the new 8 CFR § 208.13(c)(4), any alien who enters, attempts to enter, or arrives in the US across the southern land border on or after **July 16, 2019**, is ineligible for asylum, unless the alien

- Demonstrates that he or she applied for protection from persecution or torture in at least one country outside his or her country of nationality or last habitual residence through which he or she transited in route to the US, and the alien received a final judgement denying the alien protection in such country,
- Demonstrates that he or she satisfies the definition of victim of a severe form of trafficking in persons provided in 8 CFR 214.11 (everyone should have received training on this during your initial officer training; please refer to your Detecting Possible Victims of Trafficking RAIO Combined Training Course training module for guidance), or
- The only countries through which the alien transited in route to the US, at the time of transit, were not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, or the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (at present, those countries would be Bhutan, Grenada, Kiribati, Malaysia, Micronesia, Myanmar, North Korea, Oman, Singapore, and Tonga)

Nothing in the IFR limits an alien from being considered for withholding of removal or protection under CAT, or limits the processes applied to UACs pursuant to TVPRA.

Revised CF screening for aliens subject to the new asylum bar

In addition, under the newly amended regulation at 8 CFR § 208.30(e)(5)(iii), any alien placed into expedited removal who is referred to us for a credible fear screening and who is determined to be ineligible for asylum under the new 8 CFR § 208.13(c)(4) shall

- Receive a negative credible finding as to any asylum claim under INA Section 208; and
- Have any claim to eligibility for withholding of removal or protection under the Convention Against Torture considered under the “reasonable possibility” reasonable fear screening standard **instead of** the “significant possibility” credible fear screening standard.

Besides this changed screening standard for withholding and CAT, all the other usual CF screening procedures and rules apply to these cases, including issuing someone who receives a positive fear finding a Notice to Appear (NTA) to place the person into INA Section 240 removal proceedings.

Below you will find some more detailed “nuts and bolts” instructions for how to handle CF cases impacted by these changes. Further instructions for how we will process affirmative asylum claims impacted by these changes will be forthcoming.

Finally, let me give you a few key takeaways:

- No changes are being made at this time to our processing and screening of Reasonable Fear referrals under 8 CFR § 208.31;
- No changes are being made at this time to our processing and screening of Credible Fear referrals for those aliens who are not impacted by the new asylum bar;
- We have been doing Reasonable Fear screenings for years; conducting RF screenings for aliens impacted by the new asylum bar should be no different;
- The new bar to asylum will apply to affirmative asylum applications, but only for individuals who entered, attempted to enter, or arrived in the US across the southern land border on or after July 16, 2019. It will likely be several weeks or months before we interview and adjudicate any affirmative asylum cases that are impacted by this bar.

We are once again being asked to adapt, and to do so with very little time to train and prepare. If I didn’t know that we have some of the most dedicated, most adaptable, and most talented public servants presently serving in the federal government, I would be concerned about being able to implement these changes on such short notice. Fortunately, each of you are all of those things and much, much more.

I fully expect there to be many questions as this is implemented in the coming days and weeks. Please bring those questions forward to your office leadership so that we can attempt to respond as quickly as possible, and share those responses with the other offices.

Thanks!

John

SUBJECT: Updated Procedures for Implementing the Interim Final Rule

Effective beginning July 16, 2019, and pursuant to 8 CFR 208.13(c)(4) , this message provides updated procedures for the processing of Credible Fear cases. In particular, this guidance modifies the Credible Fear of Persecution and Torture Determinations Lesson Plan (“Credible Fear Lesson Plan”), the Credible Fear Procedures Manual, and all other prior guidance documentations and memorandums that are inconsistent with the Interim Final Rule published on July 16, 2019.

Instructions on the impact of this IFR on affirmative asylum processing will be forthcoming. To be subject to the bar the alien must enter, attempt to enter, or arrive in the US across the southern land border on or after July 16, 2019.

These updated procedures are effective immediately and apply to any APSO screening determination issued after July 15, 2019. All asylum offices are responsible for conducting field training for staff on these updated procedures as soon as practicable, no later than one week from today. A PowerPoint training is attached.

Officers **must be trained on reasonable fear** to adjudicate cases subject to the IFR.

Aliens placed in the expedited removal process under INA §235(b)(1) must be referred to USCIS for a credible fear screening if they express a fear of returning to their country. These new procedures only apply to aliens who enter, attempt to enter, or arrive in the US across the southern land border. Cases where aliens enter or attempt to enter or arrive in other locations should follow current Asylum Division Credible Fear Procedures.

## Jurisdiction

The Interim Final Rule does not alter the referral process. The Asylum Office must receive all the jurisdictional documents listed at III.B. of the Credible Fear Procedures Manual prior to adjudicating the case. The AO and SAO must confirm that the asylum division has proper jurisdiction in each case.

## Interview

Prior to interviewing a case, the asylum officer should review jurisdictional documents (such as the I-213, I-860, I-867A and B) to ascertain the alien's date and manner of entry into the United States.

Jurisdictional documents alone are not enough to establish the application of the bar. An asylum officer must also elicit information regarding potential exceptions and complete the Third-Country Transit Bar Worksheet.

If the officer establishes that the bar applies and that no exceptions to the bar are applicable, the officer should inform the alien that the reasonable possibility standard will apply to the claim. This explanation should be documented in an orientation memo to file (see attached memo).

Once the officer establishes that the bar applies, the officer will make a negative credible fear finding as to asylum and interview the alien to determine if he or she meets the reasonable possibility standard for persecution and the Convention Against Torture. Please see the Reasonable Fear of Persecution and Torture Determinations Lesson Plan for more information on this standard.

## Case Processing

1. **Third-Country Transit Bar Worksheet:** Must be completed for all individuals who entered, attempted to enter, or arrived in the US across the southern land border on or after **July 16, 2019**.
2. **Orientation Memo to File:** When the AO determines that the bar applies, the adjudicator must explain to the alien that he or she will be screened according to the reasonable possibility standard and complete a memo to file. The memo is not required if the alien is not subject to the bar or if he or she establishes that the bar does not apply.
3. **I-870:** Use I-870 dated 7/11/19 for all cases.
4. **CF Checklist:** For applicants barred for asylum, please use the "Credible Fear Determination Checklist and Written Analysis for Applicants in Expedited Removal Found Barred from Asylum Pursuant to 208.13(c)(4)." (Checklist 3). Checklist 3 contains instructions regarding the applicable legal standard.
5. **I-869A:** Use I-869A instead of I-869 to document negative determinations for applicants who are barred and are screened using the reasonable fear standard.
6. **Global:** Only for cases subject to IFR, offices select special group code "**bar - 13(c)(4)**." If the individual establishes an exception to the bar, offices select special group code "**no bar - 13(c)(4)**." Officers, SAOs and all involved in case processing are reminded to make sure that one of these special group codes **must be selected** whenever the individual interviewed is comes within the scope of this new IFR bar.

If you have any questions concerning the procedures contained in this memorandum, please contact the headquarters APSO point or points of contact. We will be updating the Credible Fear Lesson Plan and Credible Fear Procedures Manual in the future.

Orientation memo to file  
I-870, dated 7/11/19  
CF Checklist 3  
I-869A  
PPT



### Third-Country Transit Bar Worksheet (8 CFR 208.13(c)(4))

|                                                                                                                                                                                                                                                                                                                                                                                   |             |                 |                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------|-------------------------------------|
| A#:                                                                                                                                                                                                                                                                                                                                                                               | Alien Name: | AO Name/Number: | Date:                               |
| <b>A. Arrival Date</b> <i>(If checking “no”, bar does not apply and this form does not need to be completed.)</i>                                                                                                                                                                                                                                                                 |             |                 |                                     |
| Did the alien enter, attempt to enter, or arrive in the United States <i>across the southern land border</i> on or after July 16, 2019?                                                                                                                                                                                                                                           |             |                 | <b>Yes</b> <input type="checkbox"/> |
| Explanation:                                                                                                                                                                                                                                                                                                                                                                      |             |                 | <b>No</b> <input type="checkbox"/>  |
| <b>B. 8 CFR 208.13(c)(4) Mandatory Bar Analysis</b> <i>(If checking “no” in box B.1, do not complete boxes B.2, B.3 and B.4 as an exception applies. If checking “yes” in boxes B.1 and B.2, B.3 or B.4, then an exception applies. If checking “yes” in boxes B.1 and “no” in boxes B.2, B.3 and B.4, then bar applies and there is no exception available.)</i>                 |             |                 |                                     |
| 1. <b>Transit:</b> Did the alien transit through any country apart from his or her country of nationality (or last habitual residence) en route to the United States?                                                                                                                                                                                                             |             |                 | <b>Yes</b> <input type="checkbox"/> |
| List all applicable countries:                                                                                                                                                                                                                                                                                                                                                    |             |                 | <b>No</b> <input type="checkbox"/>  |
| 2. <b>Protection Sought:</b> Did the alien demonstrate that s/he applied for protection in at least one country and received a final judgment denying protection?                                                                                                                                                                                                                 |             |                 | <b>Yes</b> <input type="checkbox"/> |
| Evidence or Explanation:                                                                                                                                                                                                                                                                                                                                                          |             |                 | <b>No</b> <input type="checkbox"/>  |
| 3. <b>Severe Trafficking Victim:</b> Did the alien demonstrate that s/he meets the definition of “victim of a severe form of trafficking in persons”, as defined in 8 CFR § 214.11?                                                                                                                                                                                               |             |                 | <b>Yes</b> <input type="checkbox"/> |
| A severe form of trafficking in persons is defined as either:                                                                                                                                                                                                                                                                                                                     |             |                 | <b>No</b> <input type="checkbox"/>  |
| a) Sex trafficking in which a commercial sex act is induced by:                                                                                                                                                                                                                                                                                                                   |             |                 |                                     |
| <input type="checkbox"/> Force, fraud, or coercion, or                                                                                                                                                                                                                                                                                                                            |             |                 |                                     |
| <input type="checkbox"/> Person induced is under the age of 18; <b>or,</b>                                                                                                                                                                                                                                                                                                        |             |                 |                                     |
| b) Recruiting, harboring, transporting, provisioning, or obtaining a person for labor or services through the use of force, fraud, or coercion for subjection to:                                                                                                                                                                                                                 |             |                 |                                     |
| <input type="checkbox"/> Involuntary servitude; peonage; debt bondage; or slavery                                                                                                                                                                                                                                                                                                 |             |                 |                                     |
| Explanation:                                                                                                                                                                                                                                                                                                                                                                      |             |                 |                                     |
| 4. <b>Protection Unavailable in Countries Transited:</b>                                                                                                                                                                                                                                                                                                                          |             |                 | <b>Yes</b> <input type="checkbox"/> |
| The only countries through which the alien transited en route to the United States, were, at the time of the transit, not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, or the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. |             |                 | <b>No</b> <input type="checkbox"/>  |

### Third-Country Transit Bar Worksheet (8 CFR 208.13(c)(4))

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p><b>C. Decision</b></p> <p><i>If the alien established that the bar does not apply, or if an exception applies, continue processing as a credible fear or affirmative case.</i></p> <p><i>If the alien failed to establish that s/he is not barred:</i></p> <ul style="list-style-type: none"><li>• <i>If the alien is in expedited removal, continue screening for withholding and CAT using the <b>reasonable fear</b> standard.</i></li><li>• <i>If the alien filed affirmatively, complete interview and address the mandatory bar in the referral/denial.</i></li></ul> |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

**CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS**  
**FOR APPLICANTS IN EXPEDITED REMOVAL FOUND BARRED FROM ASYLUM PURSUANT TO 208.13(c)(4)**  
**[JULY 16, 2019] [CHECKLIST 3]**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |          |            |                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------|------------------------------------------------------------------------|
| A#:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | COUNTRY: | APSO Name: | DATE:                                                                  |
| <p><i>By using this checklist, the adjudicator has determined that the applicant is barred for asylum pursuant to 8 C.F.R. 208.13(c)(4).</i></p> <p><i>If there is a reasonable possibility of persecution, complete Sections A., B., and C. If there is a reasonable possibility of torture, complete Sections A., B., and D. If there is not a reasonable possibility of persecution or torture, complete Sections A., B., C., and D. unless the claim fails in Section A.2. (Future Harm) or Section B. (Credibility), in which case, stop and complete Form I-870.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |          |            |                                                                        |
| <p><b>A. Harm</b> <i>(If yes to A.2., proceed with the analysis. If no to A.2., STOP and complete Form I-870.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |          |            |                                                                        |
| <p>1. Has the applicant testified that he or she has experienced <u>past</u> harm in his or her country?<br/> <i>If yes, identify any past harm or mistreatment suffered, and identify the relevant entity.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>2. Has the applicant testified that he or she fears <u>future</u> harm if returned to his or her country?<br/> <i>If yes, identify any harm or mistreatment feared, and identify the relevant entity. If no, explain and complete Form I-870.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p><b>B. Credibility</b> <i>(Select the appropriate box and analyze whether the applicant's testimony was credible or not credible.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |          |            |                                                                        |
| <p><b>Applicant's testimony was credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was consistent, detailed, and plausible. Therefore, it is found credible. <i>(Check box, explain only if overall decision is positive, and move to Section C. or D.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |          |            | <input type="checkbox"/>                                               |
| <p><b>Applicant's testimony was not credible:</b> Considering the identified credibility concern(s), the absence of reasonable explanations for those concerns, and taking into consideration the applicant's individual circumstances, the applicant's testimony is found not credible under the totality of the circumstances and all relevant factors. <i>(Check box, explain, STOP and complete Form I-870.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |          |            | <input type="checkbox"/>                                               |
| <p><b>C. Persecution</b> <i>(Select as needed. If yes to C.1. or C.2., complete C.3. If no to C.1 and C.2., complete C.3.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |          |            |                                                                        |
| <p>1. a. <u>Past Persecution:</u> The applicant established that:</p> <ul style="list-style-type: none"> <li>• The harm experienced was sufficiently serious to amount to persecution;</li> <li>• The entity that harmed the applicant was motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion, applying the one central reason standard; and</li> <li>• The entity that harmed the applicant was an agent of the government or an entity that the government was unable or unwilling to control.</li> </ul> <p style="text-align: center;"><b>AND</b></p> <p>1. b. The presumption of well-founded fear has <b>not</b> been rebutted by a preponderance of the evidence that 1) there has been a fundamental change in circumstances such that the applicant no longer has a well-founded fear, or 2) it would be reasonable, under all the circumstances, for the applicant to relocate within the applicant's country to avoid future persecution.</p> |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>2. <u>Future Persecution:</u> The applicant established a <b>reasonable possibility</b> of persecution on account of a protected ground:</p> <ul style="list-style-type: none"> <li>• The harm feared is sufficiently serious to amount to persecution;</li> <li>• The applicant 1) either <u>possesses</u> a protected characteristic of which the feared entity is or could become <u>aware</u> or the feared entity believes that the applicant possesses a protected characteristic, and 2) the feared entity has the <u>capability</u> and <u>inclination</u> to persecute the applicant, OR there is a <u>pattern or practice</u> of persecution of a group of persons similarly situated to the applicant on account of a protected ground; and</li> <li>• Under all the circumstances, it would not be reasonable for the applicant to relocate within the applicant's country to avoid future persecution.</li> </ul>                                                                                                                         |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>C.3. <u>Written Analysis:</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |          |            |                                                                        |

Race ☐ Religion ☐ Nationality ☐ Membership in a Particular Social Group ☐ Political Opinion ☐

If reasonable possibility of persecution established, identify the protected ground and specify:

*As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

**D. Torture** (Select D.1. as needed and complete D.2.)

**D.1.** There is a **reasonable possibility** that:

- The feared harm would be specifically intended to inflict severe pain or suffering on the applicant;
- The feared harm would constitute severe physical or mental pain or suffering;
- The feared harm would be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity;
- The applicant would be in the offender's custody or physical control; **and**
- The harm would not arise only from or be inherent in or incidental to lawful sanctions.

In making this determination, the following evidence must be considered:

- Evidence of past torture inflicted upon the applicant;
- Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;
- Evidence of gross, flagrant or mass violations of human rights within the country of removal; and other relevant information regarding conditions in the country of removal.

If the applicant has established past torture **AND** there are no changes in circumstances so substantial such that the applicant does not have a reasonable fear of torture, the applicant will be found to have established a reasonable fear of torture.

Yes ☐

No ☐

**D.2. Written Analysis:** *As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

**Record of Negative Credible/Reasonable Fear Finding and  
Request For Review by Immigration Judge for Aliens Barred  
From Asylum Pursuant to 8 CFR 208.13(c)(4)**

Alien File Number: \_\_\_\_\_

**1. To be explained to the alien by the asylum officer:**

**A.** U.S. Citizenship and Immigration Services (USCIS) has determined that you are an alien described in 8 CFR 208.13(c)(4) and therefore, you have not established a credible fear because you cannot show a significant possibility of establishing eligibility for asylum.

**B.** You have not established a reasonable fear with respect to your application for withholding of removal under INA 241(b)(3) or withholding or deferral of removal under the Convention Against Torture pursuant to 8 CFR 208.16 for the following reason(s):

- ☐ You have not established a reasonable fear of persecution in a country to which you have been ordered removed because:
- ☐ You have not indicated that you were harmed in the past and you have not expressed fear of future harm.
  - ☐ There is no reasonable possibility that the harm you experienced and/or the harm you fear is on account of your race, religion, nationality, political opinion, or membership in a particular social group.
  - ☐ You have not indicated that you were harmed in the past, or there is no reasonable possibility that the past harm or the harm you fear in the future constitutes persecution.
  - ☐ There is no reasonable possibility that you would suffer the harm you fear.
  - ☐ You could reasonably avoid persecution by relocating within your country.

**AND**

- ☐ You have not established a reasonable fear of torture in a country to which you may be removed because you have not established that there is a reasonable possibility that:
- ☐ You would suffer severe physical or mental pain or suffering.
  - ☐ The harm you fear would be specifically intended to inflict severe physical or mental pain or suffering.
  - ☐ The harm you fear would be inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity.
  - ☐ The harm you fear would be inflicted while you are in the custody or physical control of the offender.
  - ☐ The harm you fear would not arise only from, would not be inherent in, and would not be incidental to, lawful sanctions.

**C.** ☐ Considering the totality of the circumstances and all relevant factors, you have not established that your testimony is credible.

Therefore, you are ordered removed from the United States. You may request that an Immigration Judge review this decision.

If you request that an Immigration Judge review this decision, you will remain in detention until an Immigration Judge reviews your case. That review could occur as long as 7 days after you receive this decision.

If you indicate below that do not request that an Immigration Judge review the decision, you may be removed from the United States immediately.

**2. To be completed by the alien:**

- ☐ **Yes, I request Immigration Judge review** of the decisions that I do not have a credible fear of persecution or torture and that I do not have a reasonable fear of persecution or torture.
- ☐ **No, I do not request Immigration Judge review** of the decisions that I do not have a credible fear of persecution or torture and that I do not have a reasonable fear of persecution or torture.

\_\_\_\_\_  
Applicant's Last Name/ Family Name (Print)

\_\_\_\_\_  
Applicant's First Name (Print)

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Asylum Officer's Last Name (Print)

\_\_\_\_\_  
Asylum Officer's First Name, (Print)

\_\_\_\_\_  
Date

The contents of this form were read and explained to the applicant in the \_\_\_\_\_ language

Interpreter used:

By telephone (list interpreter service /ID number used \_\_\_\_\_).

In person (I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.)

\_\_\_\_\_  
Interpreter's Signature

\_\_\_\_\_  
Date

**Record of Negative Credible/Reasonable Fear Finding and  
Request For Review by Immigration Judge for Aliens Barred  
From Asylum Pursuant to 8 CFR 208.13(c)(4)**

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**Caudill-Mirillo, Ashley B**

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**From:** Caudill-Mirillo, Ashley B  
**Sent:** Tuesday, August 20, 2019 12:44 PM  
**To:** RAIO - Asylum HQ  
**Subject:** FW: Amended Guidance on the Interim Final Rule and the 9th Circuit Injunction  
**Attachments:** 9 East Bay Covenant (Aug 16 2019).pdf  
**Importance:** High

**FOR INTERNAL USE ONLY**

Good afternoon HQ,

My apologies. I missed including our distribution list in my haste to get the guidance to the field.

Thanks!

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**From:** Caudill-Mirillo, Ashley B <Ashley.Caudill-Mirillo@uscis.dhs.gov>  
**Sent:** Tuesday, August 20, 2019 9:30 AM  
**To:** RAIO - Asylum HQ Leadership <RAIO-AsylumHQLeadership@uscis.dhs.gov>; RAIO - Asylum Field Office Managers <RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov>; RAIO - Asylum Field Office Staff <RAIO-Test@uscis.dhs.gov>; RAIO - Executive Leadership <RAIO-ExecutiveLeadership@uscis.dhs.gov>; RefugeeAffairsTDY <refugeeaffairstdy@uscis.dhs.gov>  
**Subject:** Amended Guidance on the Interim Final Rule and the 9th Circuit Injunction  
**Importance:** High

**FOR INTERNAL USE ONLY**

Asylum Division Staff,

As you know, the Ninth Circuit issued the attached decision in *East Bay v. Barr*, No. [19-16487](#) (9th Cir. Aug. 16, 2019) (*East Bay II*) partially granting and partially denying the Government's motion to stay the district court's preliminary injunction of the DOJ/DHS joint interim final rule, "Asylum Eligibility and Procedural Modifications," 84 Fed. Reg. 33,829 (July 16, 2019), i.e., the third country transit asylum bar IFR. The Ninth Circuit denied the motion for a stay pending appeal insofar as the injunction applies within the Ninth Circuit, but granted the motion for a stay pending appeal insofar as the injunction applies outside the Ninth Circuit. The initial guidance disseminated on August 17, 2019, is withdrawn and replaced by this guidance. Additional updates will be provided as necessary.

The third country transit asylum bar IFR remains preliminarily enjoined in the Ninth Circuit and therefore USCIS personnel still cannot rely on the third country transit asylum bar IFR when conducting credible fear screening interviews for cases arising in the Ninth Circuit, or when adjudicating asylum applications within the Ninth Circuit. USCIS personnel should continue to follow the processes in place prior to implementation of the IFR for credible fear screenings and asylum adjudications in the Ninth Circuit. However, because the court granted a stay of the preliminary injunction outside of the Ninth Circuit, the third country transit asylum rule is effective as to:

- (1) All credible fear screenings that are conducted or remain pending after August 16, 2019, for cases arising outside the Ninth Circuit, and
- (2) All asylum applications filed on or after July 16, 2019, that remain pending after August 16, 2019, outside of the Ninth Circuit. \*\*As a reminder, for asylum applications that are pending after August 16, 2019 outside of the Ninth Circuit, the IFR would apply, but the bar at 8 CFR 208.13(c)(4) only applies to

DHS-19-1398-A-000390

an alien who enters, attempts to enter, or arrives in the United States across the southern land border on or after July 16, 2019, after transiting through at least one country outside the alien's country of last citizenship, nationality, or last habitual residence en route to the United States, unless an exception applies. For purposes of determining whether the injunction applies, the IFR should not apply to any CF determination or asylum adjudication in which: (1) the alien was apprehended in the jurisdiction of the Ninth Circuit (California, Arizona, Nevada, Oregon, Washington, Idaho, Montana, Alaska, Hawaii, Guam, Northern Mariana Islands) or (2) the alien is in the jurisdiction of the Ninth Circuit when the credible fear screening is conducted or the claim is adjudicated.

Should you have any questions or concerns, please direct through your chain of command. It is also recommended you consult the guidance attached to the e-mail from Asylum Division Chief John Lafferty on July 15, 2019 entitled *Interim Final Rule – Asylum Eligibility and Procedural Modifications*.

Thanks,

Ashley

Ashley Caudill-Mirillo

Deputy Chief

Asylum Division

Refugee, Asylum, and International Operations



FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 16 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

EAST BAY SANCTUARY COVENANT;  
AL OTRO LADO; INNOVATION LAW  
LAB; CENTRAL AMERICAN  
RESOURCE CENTER,

Plaintiffs-Appellees,

v.

WILLIAM P. BARR, Attorney General;  
UNITED STATES DEPARTMENT OF  
JUSTICE; JAMES MCHENRY, Director of  
the Executive Office for Immigration  
Review, in his official capacity;  
EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW; KEVIN K.  
MCALEENAN, Acting Secretary of  
Homeland Security, in his official capacity;  
U.S. DEPARTMENT OF HOMELAND  
SECURITY; KENNETH T. CUCCINELLI,  
Acting Director of the U.S. Citizenship and  
Immigration Services, in his official  
capacity; JOHN P. SANDERS, Acting  
Commissioner of U.S. Customs and Border  
Protection, in his official capacity; UNITED  
STATES CITIZENSHIP AND  
IMMIGRATION SERVICES; U.S.  
CUSTOMS AND BORDER  
PROTECTION; MATTHEW ALBENCE,  
Acting Director of Immigration and  
Customs Enforcement, in his official  
capacity; IMMIGRATION AND  
CUSTOMS ENFORCEMENT,

No. 19-16487

D.C. No. 3:19-cv-04073-JST  
Northern District of California,  
San Francisco

ORDER

Defendants-Appellants.

Before: TASHIMA, M. SMITH, and BENNETT, Circuit Judges.

Appellants seek a stay pending appeal of the district court’s July 24, 2019 order preliminarily enjoining the Department of Justice and Department of Homeland Security’s joint interim final rule, “Asylum Eligibility and Procedural Modifications” (the “Rule”), 84 Fed. Reg. 33,829 (July 16, 2019).<sup>1</sup>

The district court found that the Rule likely did not comply with the Administrative Procedure Act’s (APA) notice-and-comment and 30-day grace period requirements because Appellants did not adequately support invocation of the “good cause” and “foreign affairs” exemptions under the APA. *See* 5 U.S.C. § 553(a)(1), (b)(1)(B), (d)(3); *Buschmann v. Schweiker*, 676 F.2d 352, 357 (9th Cir. 1982) (good cause exemption “should be interpreted narrowly so that the exception will not swallow the rule” (internal citations omitted)); *Yassini v. Crosland*, 618 F.2d 1356, 1360 n.4 (9th Cir. 1980) (foreign affairs exemption “would become distended” if applied to immigration rules generally and requires showing that ordinary public noticing would “provoke definitely undesirable

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<sup>1</sup> The State of Arizona’s amicus brief in support of Appellants’ motion has been filed. The Professors of Immigration Law’s motion for leave to file an amicus brief in opposition to Appellants’ motion (Docket Entry No. 28) is granted, and the brief is filed.

international consequences”). We conclude that Appellants have not made the required “strong showing” that they are likely to succeed on the merits on this issue. *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987).<sup>2</sup>

Consequently, we deny the motion for stay pending appeal (Docket Entry No. 3) insofar as the injunction applies within the Ninth Circuit.<sup>3</sup>

We grant the motion for stay pending appeal insofar as the injunction applies outside the Ninth Circuit, because the nationwide scope of the injunction is not

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<sup>2</sup> Our finding that Appellants have not made a “strong showing” does not bind the merits panel in reviewing this aspect of the merits, as that is not the standard the merits panel will apply. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

<sup>3</sup> We do not assess Appellants’ remaining arguments as to likelihood of success on the merits and do not reach the remaining *Hilton* factors. *See Nken v. Holder*, 556 U.S. 418, 435 (2009) (stating that the likelihood of success on the merits factor is one of the “most critical” and must be established before considering the last two stay factors); *cf. California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018) (“Likelihood of success on the merits is the most important factor; if a movant fails to meet this threshold inquiry, we need not consider the other factors.” (internal quotation marks omitted) (quoting *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017))).

supported by the record as it stands.<sup>4</sup> *Cf. City and County of San Francisco v. Trump*, 897 F.3d 1225, 1243–45 (9th Cir. 2018).<sup>5</sup>

An injunction must be “narrowly tailored to remedy the specific harm shown.” *Id.* at 1244 (quoting *Bresgal v. Brock*, 843 F.2d 1163, 1170 (9th Cir. 1987)). We have upheld nationwide injunctions where such breadth was necessary to remedy a plaintiff’s harm. *See, e.g., id.; California v. Azar*, 911 F.3d 558, 582 (9th Cir. 2018) (“Although there is no bar against nationwide relief in federal district court . . . such broad relief must be *necessary* to give prevailing parties the

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<sup>4</sup> The dissent, without citing any authority, argues that “it is [not] within a motions panel’s province to parse the record for error at this stage” and accuses us of “[going] beyond the recognized authority of a motions panel” by granting the motion for a stay pending appeal insofar as the injunction applies outside the Ninth Circuit. We have two responses.

First, we did not have to “parse” the record for error. Appellants’ stay motion specifically argues that the district court erred in imposing a nationwide injunction. Moreover, the three sentences that the district court provided to support the imposition of a nationwide injunction—none of which explains why it believed a nationwide injunction was necessary in this case—make clear that it failed to undertake the analysis necessary before granting such broad relief.

Second, other motions panels of our court have reviewed the scope of injunctive relief granted by district courts. *See, e.g., E. Bay Sanctuary Covenant v. Trump*, No. 18-17274, 2018 WL 8807133, at \*24 (9th Cir. Dec. 7, 2018); *Hawaii v. Trump*, No. 17-17168, 2017 WL 5343014, at \*1 (9th Cir. Nov. 13, 2017). We think these decisions illustrate that it is indeed within our province—our duty, even—to review whether the district court abused its discretion in granting a nationwide injunction.

<sup>5</sup> The dissent criticizes our reliance on *Trump*, 897 F.3d 1225, because the procedural posture in this case is different. We recognize this difference as we cite *Trump* as an analogous case supporting our decision because, notwithstanding the different procedural posture, the issue in that case—whether the scope of the injunction was appropriate—is the same issue before us. *See id.* at 1244–45.

relief to which they are entitled.” (internal quotation marks and alterations omitted) (quoting *Bresgal*, 843 F.2d at 1170–71)). These are, however, “exceptional cases.” *Trump*, 897 F.3d at 1244. To permit such broad injunctions as a general rule, without an articulated connection to a plaintiff’s particular harm, would unnecessarily “stymie novel legal challenges and robust debate” arising in different judicial districts. *Id.*; see also *Azar*, 911 F.3d at 583 (“The Supreme Court has repeatedly emphasized that nationwide injunctions have detrimental consequences to the development of law and deprive appellate courts of a wider range of perspectives.”).

Here, the district court failed to discuss whether a nationwide injunction is necessary to remedy Plaintiffs’ alleged harm. Instead, in conclusory fashion, the district court stated that nationwide relief is warranted simply because district courts have the authority to impose such relief in some cases and because such relief has been applied in the immigration context. The district court clearly erred by failing to consider whether nationwide relief is necessary to remedy Plaintiffs’ alleged harms. And, based on the limited record before us, we do not believe a nationwide injunction is justified.

Our dissenting colleague believes that a nationwide injunction is appropriate simply because this case presents a rule that applies nationwide. That view, however, ignores our well-established rule that injunctive relief “must be tailored

to remedy the specific harm alleged.” *Lamb-Weston, Inc. v. McCain Foods, Ltd.*, 941 F.2d 970, 974 (9th Cir. 1991) (citations omitted). Indeed, were we to adopt the dissent’s view, a nationwide injunction would result any time an enjoined action has potential nationwide effects. Such an approach would turn broad injunctions into the rule rather than the exception. Under our case law, however, all injunctions—even ones involving national policies—must be “narrowly tailored to remedy the specific harm shown.” *Trump*, 897 F.3d at 1244 (quoting *Bresgal*, 843 F.2d at 1170).

We agree with our dissenting colleague that “time does not permit a full exploration of the merits of the ‘nationwide’ issue.” But whereas he believes that such a factor supports the granting of a nationwide injunction until a merits panel can address the case, we reach precisely the opposite conclusion. “National injunctions interfere with good decisionmaking by the federal judiciary.” Samuel L. Bray, *Multiple Chancellors: Reforming the National Injunction*, 131 Harv. L. Rev. 417, 461 (2017). They “deprive” other parties of “the right to litigate in other forums.” *Azar*, 911 F.3d at 583. Based on the briefing and limited record before us, and absent an explanation by the district court as to why a nationwide injunction is necessary to remedy Plaintiffs’ alleged harm in this case, we must grant the motion for stay pending appeal insofar as the injunction applies outside the Ninth Circuit.

Our dissenting colleague also argues that it is “perplexing” that the government’s failure to demonstrate a strong showing of likelihood of success on the merits “does not . . . require that a stay of the nationwide aspect of the injunction [] be denied.” That contention misses the mark, however, by conflating the merits of the government’s position with district court’s authority to issue a nationwide injunction. Whether Appellants have made a strong showing of likelihood of success on the merits entitling them to a stay of the preliminary injunction is a separate question from whether the scope of the injunction is appropriate. In *Azar*, for example, we affirmed the preliminary injunction because, among other things, we found that the plaintiffs were likely to succeed on their claim that the rules were invalid. 911 F.3d at 575–81. Despite our conclusion that the rules were likely invalid, however, we also determined that the injunction’s nationwide scope was not supported by the record. *Id.* at 584–85. *Azar* illustrates that, beyond examining the merits of a party’s arguments, a district court must separately analyze whether nationwide relief is “*necessary* to give prevailing parties the relief to which they are entitled” before issuing such an injunction. *Id.* at 582 (quoting *Bresgal*, 843 F.2d at 1170–71).

Our approach—granting a more limited injunction—allows other litigants wishing to challenge the Rule to do so. Indeed, several already have.<sup>6</sup> Litigation over the Rule’s lawfulness will promote “the development of the law and the percolation of legal issues in the lower courts” and allow the Supreme Court, if it chooses to address the Rule, to do so “[with] the benefit of additional viewpoints from other lower federal courts and [with] a fully developed factual record.”

Amanda Frost, *In Defense of Nationwide Injunctions*, 93 N.Y.U. L. REV. 1065, 1107–08 (2018).<sup>7</sup>

In sum, our decision to partially grant the stay simply upholds the law of our circuit by ensuring that injunctive relief is properly tailored to the alleged harm.<sup>8</sup>

While this appeal proceeds, the district court retains jurisdiction to further develop the record in support of a preliminary injunction extending beyond the

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<sup>6</sup> As Appellants point out, hours before the district court ruled here, a District of Columbia district court, presented with the same Rule, denied materially identical relief to organizations similar to the Plaintiffs here. *See CAIR v. Trump*, No. 1:19-CV-02117-TJK, 2019 WL 3436501 (D.D.C. July 24, 2019).

<sup>7</sup> *Accord United States v. Mendoza*, 464 U.S. 154, 160 (1984) (“[O]nly one final adjudication would deprive this Court of the benefit it receives from permitting several courts of appeals to explore a difficult question.”).

<sup>8</sup> Contrary to the dissent’s position, the fact that injunctive relief may temporarily cause the Rule to be administered inconsistently in different locations is not a sound reason for imposing relief that is broader than necessary. As we explain above, our law requires that injunctive relief be narrowly tailored to remedy the plaintiffs’ alleged harm, and it may only be broadened “if such breadth is necessary to give prevailing parties the relief to which *they* are entitled.” *Bresgal*, 843 F.2d at 1170–71 (emphasis added).



Ninth Circuit. *Cf. Trump*, 897 F.3d at 1245 (“Because the record is insufficiently developed as to the question of the national scope of the injunction, we vacate the injunction to the extent that it applies outside California and remand to the district court for a more searching inquiry into whether this case justifies the breadth of the injunction imposed.”).

The opening brief is due September 3, 2019; the answering brief is due October 1, 2019; and the optional reply is due within 21 days after service of the answering brief. This case will be placed on a December 2019 argument calendar.

FILED

*East Bay Sanctuary Covenant v. Barr*, No. 19-16487

AUG 16 2019

TASHIMA, Circuit Judge, concurring in part and dissenting in part:

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

I concur in the portion of the order denying the motion for stay pending appeal [Dkt. 3] insofar as the injunction applies within the Ninth Circuit, but dissent from the balance of the order.

Acting as a motions panel, all we have before us is the government’s motion for a stay. I do not believe that it is within a motions panel’s province to parse the record for error at this stage, which is what the majority does in concluding that “the nationwide scope of the injunction is not supported by the record as it stands.” (Citation omitted.) But the majority then goes beyond the recognized authority of a motions panel by concluding that “[t]he district court clearly erred by failing to consider whether nationwide relief is necessary to remedy Plaintiffs’ alleged harms,” and, on that basis “grant[s] the motion for stay pending appeal insofar as the injunction applies outside the Ninth Circuit.” It then, in the penultimate paragraph of the Order, in effect, remands the case to the district court for a partial do-over:

While this appeal proceeds, the district court retains jurisdiction to further develop the record in support of a preliminary injunction extending beyond the Ninth Circuit.<sup>1</sup>

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<sup>1</sup> The majority relies on *City & County of San Francisco v. Trump*, 897 F.3d 1225, 1245 (9th Cir. 2018), but the citation is completely inapposite. That  
(continued...)

But vacating and remanding it to the district court for a more searching inquiry into whether this case justifies the breadth of the injunction is indubitably an action within the province of a merits panel—not a motions panel.<sup>2</sup>

At the same time, the order places the merits briefing (of this appeal) on an expedited schedule for placement “on a December 2019 argument calendar.” What issues are the parties expected to brief, assuming that parallel proceedings in the district court are still ongoing? And if the district court completes its second-look remand proceedings within the next few weeks or months and issues a modified injunction, or issues the same nationwide injunction, but one which is supported by supplemental findings of fact, should the parties seek to file supplemental briefs on the newly-raised and newly-decided issues in this appeal to the merits panel assigned to this appeal, or should a new notice of appeal be filed, giving rise to a

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<sup>1</sup>(...continued)

was an opinion by a merits panel charged with deciding the appeal, not a motions panel charged with deciding a stay motion, and the merits panel did exactly what it was charged with, *i.e.*, it decided the appeal; it “AFFIRMED in part; VACATED in pari; and REMANDED.” *Id.* We, as a motions panel, have no equivalent charge.

<sup>2</sup> Because the issue has been decided, applying the clear error standard of review, the injunction vacated and remanded to the district court, the merits panel, presumably has been deprived of deciding this issue. The majority’s assertion, in footnote 2, that its action “does not bind the merits panel,” is an empty promise. Deciding the case on the merits, vacating and remanding the injunction is not in accord with the dictates of *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

new appeal? These are some of the new and difficult questions raised by the majority's split-decision.

While time does not permit a full exploration of the merits of the “nationwide” issue, some problems posed by the majority's Ninth Circuit-only injunction are apparent. Perhaps, the district court did not make detailed findings in support of a nationwide injunction because the need for one in the circumstances of this case is obvious. For starters, the joint interim final rule, “Asylum Eligibility and Procedural Modifications,” will affect asylum applications across the breadth of the southern border. Should asylum law be administered differently in Texas than in California? These issues and problems illustrate why tinkering with the merits on a limited stay motion record can be risky. And it is why such issues are reserved for the more deliberate examination that a merits panel can give them.

There is also a glaring inconsistency—a contradiction—in the majority's split-the-baby approach. If, as the majority and I agree, the government's failure to meet the first *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987), factor—likelihood of success on the merits, because of its failure to comply with the APA—means that its stay motion with respect to the preliminary injunction's application within the Ninth Circuit fails, it is perplexing to me why that failure does not infect the balance of its stay motion and require that a stay of the nationwide aspect of the

injunction also be denied.<sup>3</sup> The majority, in its rush to address the merits of the nationwide aspect of the injunction, simply elides this contradiction.

Because I would not peel off part of the preliminary injunction and remand that portion to the district court, “[b]ecause the record is insufficiently developed as to the question of the national scope of the injunction” (quoting *San Francisco v. Trump*, 897 F.3d at 1245), while retaining jurisdiction over the remainder, I dissent from the remand<sup>4</sup> of the nationwide scope of the preliminary injunction to the district court.

I would simply deny the stay motion.

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<sup>3</sup> The majority’s answer to this point is to state that “Whether Appellants have made a strong showing of likelihood of success on the merits entitling them to a stay of the preliminary injunction is a separate question from whether the scope of the injunction is appropriate.” But that doesn’t answer (or even try to answer) my question of why the government’s failure to meet the likelihood-of-success factor doesn’t doom its motion to stay the nationwide portion of the injunction, as well as the California portion.

<sup>4</sup> The Order does not use the word “remand,” but the majority does not quarrel with the obvious inference from its statement that “the district court retains jurisdiction to further develop the record in support of a preliminary injunction extending beyond the Ninth Circuit,” is, in substance, a remand.

|                            |                             |                     |                           |
|----------------------------|-----------------------------|---------------------|---------------------------|
| _____                      | _____                       | _____               | _____                     |
| District Office Code       | Asylum Office Code          | Alien's File Number | Alien's Last/ Family Name |
| _____                      | _____                       | _____               | _____                     |
| Asylum Officer's Last Name | Asylum Officer's First Name | Alien's Nationality | _____                     |

*All statements in italics must be read to the applicant*

**SECTION I:**

**INTERVIEW PREPARATION**

- 1.1 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.2 \_\_\_\_\_  
Date of arrival [MM/DD/YY] Port of arrival
- 1.3 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.4 \_\_\_\_\_  
Date of detention [MM/DD/YY] Place of detention
- 1.5 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.6 \_\_\_\_\_  
Date of AO orientation [MM/DD/YY] If orientation more than one week from date of detention, explain delay
- 1.7 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.8 \_\_\_\_\_  
Date of interview [MM/DD/YY] Interview site
- 1.9 ☐ Applicant received and signed **Form M-444** and relevant *pro bono* list on \_\_\_\_\_  
Date signed [MM/DD/YY]
- 1.10 Does applicant have consultant(s)? ☐ Yes ☐ No
- 1.11 If yes, consultant(s) name, address, telephone number and relationship to applicant  
\_\_\_\_\_  
\_\_\_\_\_
- 1.12 Persons present at the interview (check which apply)
- 1.13 ☐ Consultant(s)
- 1.14 ☐ Other(s), list: \_\_\_\_\_
- 1.15 ☐ No one other than applicant and asylum officer
- 1.16 Language used by applicant in interview:
- 1.17 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.18 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.19 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.20 ☐ Interpreter **was not changed** during the interview
- 1.21 ☐ Interpreter **was changed** during the interview for the following reason(s):
- 1.22 ☐ Applicant requested a female interpreter replace a male interpreter, or *vice versa*
- 1.23 ☐ Applicant found interpreter was not competent 1.24 ☐ Applicant found interpreter was not neutral
- 1.25 ☐ Officer found interpreter was not competent 1.26 ☐ Officer found interpreter was not neutral
- 1.27 ☐ Bad telephone connection
- 1.28 ☐ Asylum officer read the following paragraph to the applicant at the beginning of the interview:

*The purpose of this interview is to determine whether you may be eligible for asylum or protection from removal to a country where you fear persecution or torture. I am going to ask you questions about why you fear returning to your country or any other country you may be removed to. It is very important that you tell the truth during the interview and that you respond to all of my questions. This may be your only opportunity to give such information. Please feel comfortable telling me why you fear harm. U.S. law has strict rules to prevent the disclosure of what you tell me today about the reasons why you fear harm. The information you tell me about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances. The statements you make today may be used in deciding your claim and in any future immigration proceedings. It is important that we understand each other. If at any time I make a statement you do not understand, please stop me and tell me you do not understand so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain.*

Alien's File Number:

**SECTION II:**

**BIOGRAPHIC INFORMATION**

2.1 \_\_\_\_\_  
Last Name/ Family Name [ALL CAPS]

2.2 \_\_\_\_\_ 2.3 \_\_\_\_\_  
First Name Middle Name

2.4 \_\_\_\_/\_\_\_\_/\_\_\_\_ 2.5 Gender ☐ Male ☐ Female  
Date of birth [MM/DD/YY]

2.6 \_\_\_\_\_  
Other names and dates of birth used

2.7 \_\_\_\_\_ 2.8 \_\_\_\_\_  
Country of birth Country (countries) of citizenship (list all)

2.9 \_\_\_\_\_  
Address prior to coming to the U.S. (List Address, City/Town, Province, State, Department and Country).

2.10 \_\_\_\_\_ 2.11 \_\_\_\_\_ 2.12 \_\_\_\_\_  
Applicant's race or ethnicity Applicant's religion All languages spoken by applicant

2.13 Marital status: ☐ Single ☐ Married ☐ Legally separated ☐ Divorced ☐ Widowed

2.14 Did spouse arrive with applicant? ☐ Yes ☐ No

2.15 Is spouse included in applicant's claim? ☐ Yes ☐ No

2.16 If currently married (including common law marriage) list spouse's name, citizenship, and present location (if with applicant, provide A-Number):  
\_\_\_\_\_  
\_\_\_\_\_

2.17 Children: ☐ Yes ☐ No

2.18 List any children (Use the continuation section to list any additional children):

| Date of birth<br>(MM/DD/YY) | Name  | Citizenship | Present location (if w/PA,<br>list A-Numbers) | Did child<br>arrive with<br>PA?<br><input type="checkbox"/> Yes <input type="checkbox"/> No | Is child<br>included in<br>PA's claim?<br><input type="checkbox"/> Yes <input type="checkbox"/> No |
|-----------------------------|-------|-------------|-----------------------------------------------|---------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |

Alien's File Number:

2.19 Does applicant claim to have a medical condition (physical or mental), or has the officer observed any indication(s) that a medical condition exists? If YES, answer questions 2.20 and 2.21 and explain below. ☐ Yes ☐ No

2.20 Has applicant notified the facility of medical condition? ☐ Yes ☐ No

2.21 Does applicant claim that the medical condition relates to torture? ☐ Yes ☐ No

2.22 Does the applicant have a relative, sponsor or other community ties, including spouse or child already listed above? ☐ Yes ☐ No

2.23 If YES, provide information on relative or sponsor (use continuation section, if necessary):

Name

Relationship

Address

Telephone Number

☐ Citizen ☐ Legal Permanent Resident ☐ Other

**SECTION III:**

**CREDIBLE FEAR INTERVIEW**

**The following notes are not a verbatim transcript of this interview.**

**These notes are recorded to assist the individual officer in making a credible fear determination and the supervisory asylum officer in reviewing the determination.**

**There may be areas of the individual's claim that were not explored or documented for purposes of this threshold screening.**

The asylum officer must elicit sufficient information related to both credible fear of persecution and credible fear of torture to determine whether the applicant meets the threshold screening. Even if the asylum officer determines in the course of the interview that the applicant has a credible fear of persecution, the asylum officer must still elicit any additional information relevant to a fear of torture. Asylum officers are to ask the following questions and may use the continuation sheet if additional space is required. If the applicant replies YES to any question, the asylum officer must ask follow-up questions to elicit sufficient details about the claim in order to make a credible fear determination.

3.1 a. Have you or any member of your family ever been mistreated or threatened by anyone in any country to which you may be returned? ☐ Yes ☐ No

b. Do you have any reason to fear harm from anyone in any country to which you may be returned?

☐ Yes ☐ No

c. If YES to questions a and/or b, was it or is it because of any of the following reasons? (Check each of the following boxes that apply).

☐ Race ☐ Religion ☐ Nationality ☐ Membership in a particular social group ☐ Political Opinion



Alien's File Number:

- 3.2 ☐ At the conclusion of the interview, the asylum officer must read the following to applicant:

*If the Department of Homeland Security determines you have a credible fear of persecution or torture, or, where applicable, a reasonable fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. If the asylum officer determines that you do not have a credible fear of persecution or torture, and, where applicable, you do not have a reasonable fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and, where applicable, you do not have a reasonable fear of persecution or torture, you do not request review, you **may be removed** from the United States as soon as travel arrangements can be made. Do you have any questions?*

- 3.3 ☐ At the conclusion of the interview, the asylum officer must read a summary of the claim, consisting of the responses to Questions 3.1 a-c and information recorded in the Additional Information/Continuation section, to applicant.

\*\*\*\*Typed Question and Answer (Q&A) interview notes and a summary and analysis of the claim must be attached to this form for all negative credible fear decisions. These Q&A notes must reflect that the applicant was asked to explain any inconsistencies or lack of detail on material issues and that the applicant was given every opportunity to establish a credible fear.

#### SECTION IV:

#### CREDIBLE FEAR FINDINGS

##### A. Credible Fear Determination (and reasonable fear determination, where applicable):

###### Credibility

- 4.1 ☐ Applicant found credible.  
4.2 ☐ Applicant found **not** credible.

###### Nexus

- 4.3 ☐ Race 4.4 ☐ Religion 4.5 ☐ Nationality 4.6 ☐ Membership in a Particular Social Group

(Define the social group): \_\_\_\_\_

- 4.7 ☐ Political Opinion 4.8 ☐ Coercive Family Planning [CFP] 4.9 ☐ No Nexus

###### Credible Fear Finding

- 4.10 ☐ Credible fear (or in the case of an alien determined to have no credible fear of persecution because he or she is barred from asylum pursuant to 8 CFR 208.13(c)(4), reasonable fear) of **persecution** established.

**OR**

- 4.11 ☐ Credible fear (or in the case of an alien determined to have no credible fear of persecution because he or she is barred from asylum pursuant to 8 CFR 208.13(c)(4), reasonable fear) of **torture** established.

**OR**

- 4.12 ☐ No fear of persecution or torture established.

##### B. Possible Bars:

- 4.13 ☐ Applicant could be subject to a bar(s) to asylum or withholding of removal (check the box(es) that applies and explain on the continuation sheet):

- 4.14 ☐ Particularly Serious Crime 4.15 ☐ Security Risk 4.16 ☐ Aggravated Felon  
4.17 ☐ Persecutor 4.18 ☐ Terrorist 4.19 ☐ Firmly Resettled  
4.20 ☐ Serious Non-Political Crime Outside the United States  
4.21 ☐ Applicant does **not** appear to be subject to a bar(s) to asylum or withholding of removal.

Alien's File Number:

**C. Identity:**

- 4.22 ☐ Applicant's identity was determined with a reasonable degree of certainty (check the box(es) that applies):
- 4.23 ☐ Applicant's own credible statements. (If testimony is credible overall, this will suffice to establish the applicant's identity with a reasonable degree of certainty).
- 4.24 ☐ Passport which appears to be authentic.
- 4.25 ☐ Other evidence presented by applicant or in applicant's file (List): \_\_\_\_\_
- 4.26 ☐ Applicant's identity was **not** determined with a reasonable degree of certainty. (Explain on the continuation sheet.)

**SECTION V: ASYLUM OFFICER / SUPERVISOR NAMES AND SIGNATURES**

- |                                                      |                                         |                                                         |
|------------------------------------------------------|-----------------------------------------|---------------------------------------------------------|
| 5.1 _____<br>Asylum officer name and ID CODE (print) | 5.2 _____<br>Asylum officer's signature | 5.3 ____/____/____<br>Decision date                     |
| 5.4 _____<br>Supervisory asylum officer name         | 5.5 _____<br>Supervisor's signature     | 5.6 ____/____/____<br>Date supervisor approved decision |

**ADDITIONAL INFORMATION/CONTINUATION**

Alien is barred from asylum pursuant to 8 CFR 208.13(c)(4) and therefore the alien has not established a significant possibility of establishing eligibility for asylum and has received a negative credible fear of persecution determination. Alien was then screened for potential entitlement to withholding under INA 241 or CAT protection under a "reasonable possibility of persecution" and "reasonable possibility of torture" standard.

**Memo to File**

**For Alien**

**Barred From Asylum Pursuant to 8 CFR 208.13(c)(4)**

From: **[Asylum Office Name]**

RE: **[Alien name, A#]**

**[Dependent name, A#]**

At the interview:

- The Asylum Officer informed the individual that the officer had determined, based upon the individual's testimony and the other evidence in the record, that the individual is barred from asylum under 8 CFR § 208.13(c)(4), and therefore unable to establish a credible fear with respect to his or her application for asylum.
- As a result of the above determination, the Asylum Officer read the following paragraph to the individual:

The purpose of the remainder of the interview is to determine if you have a reasonable fear of persecution or torture. If it is determined that you have a reasonable possibility of being persecuted or tortured in the country to which you will be ordered removed, you will receive a Notice to Appear for a hearing in immigration court for consideration of your claim for withholding of removal under section 241(b)(3) of the Act, or for withholding or deferral of removal under the Convention Against Torture. If it is determined that you do not have a reasonable possibility of being persecuted or tortured, then you may ask to have an immigration judge review that decision. During that immigration judge review, you may also request review of the determination that you do not have a credible fear of persecution because you are barred from asylum under 8 CFR § 208.13(c)(4).



# U.S. Citizenship and Immigration Services

## Reasonable Fear



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Last Updated: August 2019

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## What is Reasonable Fear (“RF”)?

Applicant must establish a **reasonable fear** of

PERSECUTION

*or*

TORTURE

### STANDARD OF PROOF

Reasonable Possibility



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## Standard of Proof: Reasonable Possibility

- The “**reasonable possibility**” standard is the same standard required to establish eligibility for asylum (the “**well-founded fear**” standard)
- The “reasonable possibility” standard is lower than the “more likely than not standard” required to establish eligibility for withholding of removal or deferral of removal (under CAT).
- It is higher than the standard of proof required to establish a “credible fear” of persecution.



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## RF: Past Persecution Refresher

- Elements:
  - Harm
  - Nexus (“on account of”)
    - Race, Religion, Nationality, Membership in a Particular Social Group, Political Opinion
  - State Action (Government Unable or Unwilling to Control)
- Presumption → Reasonable Fear of Future Persecution
  - Fundamental Change in Circumstances
  - Internal Relocation (safe and reasonable)
- NO humanitarian/discretionary factors:
  - No Other Serious Harm
  - No Severity of Past Harm (*Chen*)



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## RF: Future Persecution Refresher

- Elements:
  - Harm
  - Possession
  - Awareness
  - Capability
    - State Action (Government Unable or Unwilling to Control)
  - Inclination
    - (Nexus – “on account of”)
  - Internal Relocation (safe and reasonable)



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## RF: Past Torture Refresher

- Elements:
  - Specific Intent
  - Harm (Severe Physical or Mental Pain or Suffering)
  - State Action (Public Official or Other Person Acting in an Official Capacity – Infliction, Instigation, Consent, or Acquiescence)
  - Custody or Physical Control
  - Not Pursuant to Lawful Sanctions
- No Presumption



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## RF: Future Torture Refresher

- Elements:
  - Specific Intent
  - Harm (Severe Physical or Mental Pain or Suffering)
  - State Action (Public Official or Other Person Acting in an Official Capacity – Infliction, Instigation, Consent, or Acquiescence)
  - Custody or Control
  - Not Pursuant to Lawful Sanctions
- Evidence to Consider
  - Past Torture
  - Internal Relocation (safe and reasonable)
  - Gross, Flagrant, Mass Human Rights Violations
  - Other Relevant Information



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# Third-Country Transit bar



## Guidance for Asylum Officers and Asylum Office Staff

07/16/2019

# Roadmap



U.S. Citizenship  
and Immigration  
Services

- Background/Legal Framework
- Overview of Third-Country Transit Bar
- Exceptions to Bar
- Revised Credible Fear Process
- Mandatory Bar Determination
- Screening Interview and Evidence
- Case Processing
- Post-Decision and Service

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# Background/Legal Framework



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- INA §§ 208(b)(2)(C), (d)(5)(B) – Delegation of authority to Attorney General and Secretary of Homeland Security ("Secretary") to promulgate regulations establishing additional bars to asylum
- 8 CFR § 208.13(c)(4) – "Notwithstanding the provisions of 8 CFR 208.15, any alien who enters, attempts to enter, or arrives in the United States across the southern land border on or **after July 16, 2019**, shall be found ineligible for asylum
- 8 CFR § 208.30(e)(5) – "If the alien is found to be an alien described as ineligible for asylum in 8 CFR 208.13(c)(4), then the asylum officer shall enter a negative credible-fear determination with respect to the alien's application for asylum. The Department shall nonetheless place the alien in proceedings under section 240 of the Act for consideration of the alien's claim for withholding of removal under section 241(b)(3) of the Act, or for withholding or deferral of removal under the Convention Against Torture, if the alien establishes, respectively, a reasonable fear of persecution or torture. "

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# Overview of Bar



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- With limited exceptions, aliens who enter or attempt to enter the United States across the southern border after failing to apply for protection in a country through which they transited en route to the United States are ineligible for asylum.
- Applies to affirmative asylum applications and credible fear screenings
- Does not modify withholding or deferral of removal proceedings
- Applies only prospectively to aliens who enter or arrive in the United States on or after effective date of this rule.
- Exceptions may apply

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# Exceptions to Bar



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- A) Applied for protection in at least one country en route to the United States and received final judgment denying protection in such country
- B) Found to be a "victim of a severe form of trafficking in persons" (8 CFR § 214.11)
- C) En route to the United States only transited through countries were, at the time of transit, not a party to the Refugee Convention/Protocol, or the Convention Against Torture (CAT)

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## Exception A: Application for Protection



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- The alien demonstrates that:
  - He or she applied for protection from persecution or torture in at least one country outside of the alien's country of nationality or last habitual residence through which the alien transited en route to the U.S., *and*
  - The alien received a final judgment denying the alien protection in such country.

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## Exception B: Trafficking



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- The alien demonstrates that:
  - He or she satisfies the definition of “victim of a severe form of trafficking in persons” provided by 8 CFR 214.11

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## Exception C: Non-Party Transit Countries



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- The alien demonstrates that:
  - The only transit countries through which the alien transited en route to the U.S., at the time of transit, were not parties to the
    - 1951 UN Convention Relating to the Status of Refugees;
    - 1967 Protocol Relating to the Status of Refugees; or
    - UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.
- Note: Mexico is a party to the Conventions and Protocol

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## Revised CF Screening for Aliens Subject to the New Asylum Bar



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- Under amended 8 CFR 208.30(e)(5), any alien placed into expedited removal who is referred for a CF screening and who is determined to be ineligible for asylum under the new 8 CFR 208.13(c)(4) shall
  - Receive a negative credible fear determination with respect to the alien's intention to apply for asylum; and
  - Have any claim to eligibility for withholding of removal or protection under CAT considered under the reasonable possibility reasonable fear standard **instead of** the significant possibility credible fear standard

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## Credible Fear Process – Jurisdiction and Family Cases



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- Jurisdiction: no change
  - Interim Final Rule does not alter the referral process
  - Asylum Office must receive all jurisdictional documents listed at CFPM III.B. prior to adjudicating the case
  - AO and SAO must confirm that the Asylum Division has proper jurisdiction in each case
  
- Family Cases: no change

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## Credible Fear Process—Application of Bar



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- Determine if bar applies by completing Third-Country Transit Bar Worksheet
  - *Note: If alien did not enter or attempt to enter the United States across the southern border on or after implementation date, then bar does not apply. Do not fill out a Third-Country Transit Bar Worksheet.*
- If entered by land from Mexico, bar applies unless exception found
- Ensure record supports determination alien entered, attempted to enter, or arrived in the United States *across the southern land border*
- Will need to elicit testimony to determine if bar applies and if there is exception
- Elicit enough testimony to make a determination whether the applicant is a trafficking victim if bar applies and no other exception available to alien

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## Credible Fear Process – Application of Bar - Worksheet



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- Did alien enter or attempt to enter the United States across the southern border on or after implementation date?
  - *I-213, I-867A/B, other documents*
  - *Interview*
- Did the individual transit through any country apart from his or her country of nationality (or last habitual residence) en route to the United States?
  - *I-213, I-867A/B, other documents*
  - *Interview*

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## Credible Fear Process– Application of Bar - Worksheet



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- If alien transited through at least one country en route that is a party to the Refugee Convention/Protocol or CAT, did alien apply for and was s/he denied protection in at least one such country?
  - If yes → *Exception A found*
- Did the alien establish that s/he meets the definition of "victim of a severe form of trafficking in persons"?
  - If yes → *Exception B found*
- The only countries through which the alien transited en route to the United States, at the time of the transit, were not parties a party to the Refugee Convention/Protocol or CAT?
  - If yes → *Exception C found*

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## Credible Fear Process– Application of Bar - Worksheet



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- Conduct interview to determine if bar applies and whether there is an exception
- Complete Third-Country Transit Bar Worksheet
- If no exception applies, complete Orientation Memo to File and proceed with RF interview
- Complete applicable CF Checklist

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# Credible Fear Process – CF Checklist



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- If bar does not apply because the alien is eligible for exception
  - → use *Credible Fear Checklist 1 (dated 5.6.19)*
- If bar does apply because no exception is available
  - → use *Credible Fear Checklist 3 (Where a determination is made that the bar applies, limits screening to solely determine eligibility for withholding of removal and protection under the Convention Against Torture using the "reasonable possibility" standard)*
- Note: Credible Fear Checklist 2 relates to 8 CFR 208.13(c)(3) (EWI proclamation)

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# Screening Interview and Evidence



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- As always, will need to determine if applicant is credible as to both bar determination and screening determination
- If bar applies → reasonable possibility standard
- If bar does not apply or bar applies and there is an exception → significant possibility standard

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# Case Processing



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- Orientation Memo to File: When the AO determines that the bar applies, the adjudicator must explain to the alien that he or she will be screened according to the reasonable possibility standard and complete and memo to file.
- Note: Orientation Memo to File is not required if the alien is not subject to the bar or if the individual establishes an exception to the bar.

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# Case Processing



U.S. Citizenship  
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## ■ Forms:

- Use I-870 dated 7.16.19 for all cases
- On p. 5, only keep the paragraph under "additional information / continuation" when the individual is barred and no exceptions apply. Delete it for all other situations.
- Orientation Memo to File for individuals who are subject to the bar
- When the bar applies, use I-869A instead of I-869 to document negative determinations
- NTA for all positive determinations, regardless of whether bar applies

## ■ Global:

- If individual is barred: select special group code **BAR - 13(c)(4)**
- If individual establishes an exception to the bar: select special group code:
  - **NO BAR – Protection Denied**
  - **NO BAR - Trafficking**
- NOTE: if individual is not subject to the bar do not select either special group code

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# Post-Interview and Service



U.S. Citizenship  
and Immigration  
Services

- Include in File
  - *Third-Country Transit Bar Worksheet should be placed in the file*
  - *Orientation Memo to File should be placed in the file*
- No change to service of determination otherwise
- Additional guidance
  - *Check box 1 on I-863*

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Guidance on electronically signing PDFs is available here:

<https://helpx.adobe.com/acrobat/11/using/signing-pdfs.html>.

Provide Assessment Worksheet and Assessment Notice to CBP.



| NOT SUBJECT TO 208.13(c)(4) Bar                                                                                        | SUBJECT TO 208.13(c)(4) Bar                        |
|------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| M-444                                                                                                                  | M-444 + Memo to File                               |
| I-870 dated 7.16.19                                                                                                    | I-870 dated 7.16.19                                |
| Global: If individual is subject to the bar but establishes an exception, select special group code "no bar - 3(c)(4)" | Global: Select special group code "bar - 13(c)(4)" |
| Credible Fear Standard                                                                                                 | Reasonable Fear Standard (no Chen/OSH)             |
| Screen for asylum, withholding, CAT                                                                                    | Screen for withholding and CAT                     |
| Checklist 1                                                                                                            | Checklist 3                                        |
| Positive Determination: I-862 (NTA)                                                                                    | Positive Determination: I-862 (NTA)                |
| Negative Determination: I-869 + I-863                                                                                  | Negative Determination: I-869A + I-863             |
| Flag other possible mandatory bars                                                                                     | Flag other possible mandatory bars                 |

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## Additional Resources



U.S. Citizenship  
and Immigration  
Services

- Trafficking Lesson Plan
- RAIO Research Unit ECN country pages
- Other Asylum and RAIO Lesson Plans

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**Andre, Lisa S**

---

**From:** Andre, Lisa S  
**Sent:** Wednesday, August 21, 2019 1:38 PM  
**To:** Perez, Ubaldo; SESSION, SHONE D; RIVERA4, LUIS; LEMUS, MIGUEL A; LEDEZMA, ARMANDO  
**Subject:** FW: Updated IFR materials  
**Attachments:** Third Country Asylum Bar Training 2019-07-16 updated.pptx; 208.13(c)(4) Mandatory Bar Worksheet 7.16.19 Updated.docx; I-870 Annotated 7.16.19.doc; Orientation memo to file July 16 2019.docx; Form I-869A July 16 2019.docx; CF Checklist 3 (effective 7.16.19).docx

**From:** Matcha, Monali V <monali.v.matcha@uscis.dhs.gov>  
**Sent:** Wednesday, August 21, 2019 11:38 AM  
**To:** Morales, Debra A <Debra.A.Morales@uscis.dhs.gov>; Barragan, Steve A <steve.a.barragan@uscis.dhs.gov>; Dobbs, Avery K <avery.k.dobbs@uscis.dhs.gov>; Stanislaw, Rebecca T <rebecca.t.stanislaw@uscis.dhs.gov>; Solaimani, Sheila <sheila.solaimani@uscis.dhs.gov>; Blatt, Rebecca A <Rebecca.A.Blatt@uscis.dhs.gov>; Stephens, Chelsea E <chelsea.e.stephens@uscis.dhs.gov>; Minnick, Frank R <Frank.R.Minnick@uscis.dhs.gov>; Shenoda, Andrew M <andrew.m.shenoda@uscis.dhs.gov>; Fortier, Evelyn R <evelynn.r.fortier@uscis.dhs.gov>; Lam, Helene <helene.lam@uscis.dhs.gov>; Trinh, Kimberly B <Kimberly.B.Tinh@uscis.dhs.gov>; Andre, Lisa S <Lisa.S.Andre@uscis.dhs.gov>  
**Cc:** #ZLA TOs <#ZLATOs@uscis.dhs.gov>  
**Subject:** FW: Updated IFR materials

Hello,

Please see attached materials for the training this afternoon. Please feel free to print them out and bring with you and/or you can also just bring your laptops.

See you all soon,  
Monali

**From:** Lafferty, John L <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)>  
**Sent:** Friday, July 19, 2019 1:44 PM  
**To:** RAIO - Asylum Field Office Managers <[RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov](mailto:RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov)>; RAIO - Asylum Field Office Staff <[RAIO-Test@uscis.dhs.gov](mailto:RAIO-Test@uscis.dhs.gov)>; RAIO - Asylum HQ <[RAIO-Asylum@uscis.dhs.gov](mailto:RAIO-Asylum@uscis.dhs.gov)>  
**Subject:** Updated IFR materials

Everyone,

In response to some items that were raised by your eagle-eyed colleagues since I first sent out these documents on Monday, we have made some minor changes to three of the IFR documents.

These are the changes:

1. Updated training powerpoint
  - a. Slide 6 – errant “and” deleted.
  - b. Slide 18 – I-870 instruction added to only keep the paragraph under “additional information /



continuation" (on p. 5) when the individual is barred and no exceptions apply. Delete it for all other situations.

- c. Slide 20 – date corrected to 7.16.19
2. I-870 with 7/16/2019 in the footer on each page. No other changes.
3. Third-Country Transit Bar Worksheet (8 CFR 208.13(c)(4)) – 7/16/2019 added in box A.

Please do not hesitate to raise any additional concerns or suggested changes up your chain, and let us know if you have any questions.

Thanks!

John

### Third-Country Transit Bar Worksheet (8 CFR 208.13(c)(4))

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |             |                 |                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------|-------------------------------------|
| A#:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Alien Name: | AO Name/Number: | Date:                               |
| <b>A. Arrival Date</b> <i>(If checking “no”, bar does not apply and this form does not need to be completed.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |             |                 |                                     |
| Did the alien enter, attempt to enter, or arrive in the United States <i>across the southern land border</i> on or after July 16, 2019?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |             |                 | <b>Yes</b> <input type="checkbox"/> |
| Explanation:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |             |                 | <b>No</b> <input type="checkbox"/>  |
| <b>B. 8 CFR 208.13(c)(4) Mandatory Bar Analysis</b> <i>(If checking “no” in box B.1, do not complete boxes B.2, B.3 and B.4 as an exception applies. If checking “yes” in boxes B.1 and B.2, B.3 or B.4, then an exception applies. If checking “yes” in boxes B.1 and “no” in boxes B.2, B.3 and B.4, then bar applies and there is no exception available.)</i>                                                                                                                                                                                                                                                                                                                                                             |             |                 |                                     |
| 1. <b>Transit:</b> Did the alien transit through any country apart from his or her country of nationality (or last habitual residence) en route to the United States?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |             |                 | <b>Yes</b> <input type="checkbox"/> |
| List all applicable countries:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |             |                 | <b>No</b> <input type="checkbox"/>  |
| 2. <b>Protection Sought:</b> Did the alien demonstrate that s/he applied for protection in at least one country and received a final judgment denying protection?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |             |                 | <b>Yes</b> <input type="checkbox"/> |
| Evidence or Explanation:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |             |                 | <b>No</b> <input type="checkbox"/>  |
| 3. <b>Severe Trafficking Victim:</b> Did the alien demonstrate that s/he meets the definition of “victim of a severe form of trafficking in persons”, as defined in 8 CFR § 214.11?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |                 | <b>Yes</b> <input type="checkbox"/> |
| <p style="margin-left: 40px;">A severe form of trafficking in persons is defined as either:</p> <p style="margin-left: 40px;">a) Sex trafficking in which a commercial sex act is induced by:</p> <ul style="list-style-type: none"> <li><input type="radio"/> Force, fraud, or coercion, or</li> <li><input type="radio"/> Person induced is under the age of 18; <b>or,</b></li> </ul> <p style="margin-left: 40px;">b) Recruiting, harboring, transporting, provisioning, or obtaining a person for labor or services through the use of force, fraud, or coercion for subjection to:</p> <ul style="list-style-type: none"> <li><input type="radio"/> Involuntary servitude; peonage; debt bondage; or slavery</li> </ul> |             |                 | <b>No</b> <input type="checkbox"/>  |
| Explanation:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |             |                 |                                     |
| 4. <b>Protection Unavailable in Countries Transited:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |             |                 | <b>Yes</b> <input type="checkbox"/> |
| <p style="margin-left: 40px;">The only countries through which the alien transited en route to the United States, were, at the time of the transit, not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, or the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.</p>                                                                                                                                                                                                                                                                                                           |             |                 | <b>No</b> <input type="checkbox"/>  |

### Third-Country Transit Bar Worksheet (8 CFR 208.13(c)(4))

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p><b>C. Decision</b></p> <p><i>If the alien established that the bar does not apply, or if an exception applies, continue processing as a credible fear or affirmative case.</i></p> <p><i>If the alien failed to establish that s/he is not barred:</i></p> <ul style="list-style-type: none"><li>• <i>If the alien is in expedited removal, continue screening for withholding and CAT using the <b>reasonable fear</b> standard.</i></li><li>• <i>If the alien filed affirmatively, complete interview and address the mandatory bar in the referral/denial.</i></li></ul> |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

**CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS**  
**FOR APPLICANTS IN EXPEDITED REMOVAL FOUND BARRED FROM ASYLUM PURSUANT TO 208.13(c)(4)**  
**[JULY 16, 2019] [CHECKLIST 3]**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |          |            |                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------|------------------------------------------------------------------------|
| A#:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | COUNTRY: | APSO Name: | DATE:                                                                  |
| <p><i>By using this checklist, the adjudicator has determined that the applicant is barred for asylum pursuant to 8 C.F.R. 208.13(c)(4).</i></p> <p><i>If there is a reasonable possibility of persecution, complete Sections A., B., and C. If there is a reasonable possibility of torture, complete Sections A., B., and D. If there is not a reasonable possibility of persecution or torture, complete Sections A., B., C., and D. unless the claim fails in Section A.2. (Future Harm) or Section B. (Credibility), in which case, stop and complete Form I-870.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |          |            |                                                                        |
| <p><b>A. Harm</b> <i>(If yes to A.2., proceed with the analysis. If no to A.2., STOP and complete Form I-870.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |          |            |                                                                        |
| <p>1. Has the applicant testified that he or she has experienced <u>past</u> harm in his or her country?<br/> <i>If yes, identify any past harm or mistreatment suffered, and identify the relevant entity.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>2. Has the applicant testified that he or she fears <u>future</u> harm if returned to his or her country?<br/> <i>If yes, identify any harm or mistreatment feared, and identify the relevant entity. If no, explain and complete Form I-870.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p><b>B. Credibility</b> <i>(Select the appropriate box and analyze whether the applicant's testimony was credible or not credible.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |          |            |                                                                        |
| <p><b>Applicant's testimony was credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was consistent, detailed, and plausible. Therefore, it is found credible. <i>(Check box, explain only if overall decision is positive, and move to Section C. or D.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |          |            | <input type="checkbox"/>                                               |
| <p><b>Applicant's testimony was not credible:</b> Considering the identified credibility concern(s), the absence of reasonable explanations for those concerns, and taking into consideration the applicant's individual circumstances, the applicant's testimony is found not credible under the totality of the circumstances and all relevant factors. <i>(Check box, explain, STOP and complete Form I-870.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |          |            | <input type="checkbox"/>                                               |
| <p><b>C. Persecution</b> <i>(Select as needed. If yes to C.1. or C.2., complete C.3. If no to C.1 and C.2., complete C.3.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |          |            |                                                                        |
| <p>1. a. <u>Past Persecution:</u> The applicant established that:</p> <ul style="list-style-type: none"> <li>• The harm experienced was sufficiently serious to amount to persecution;</li> <li>• The entity that harmed the applicant was motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion, applying the one central reason standard; and</li> <li>• The entity that harmed the applicant was an agent of the government or an entity that the government was unable or unwilling to control.</li> </ul> <p style="text-align: center;"><b>AND</b></p> <p>1. b. The presumption of well-founded fear has <b>not</b> been rebutted by a preponderance of the evidence that 1) there has been a fundamental change in circumstances such that the applicant no longer has a well-founded fear, or 2) it would be reasonable, under all the circumstances, for the applicant to relocate within the applicant's country to avoid future persecution.</p> |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>2. <u>Future Persecution:</u> The applicant established a <b>reasonable possibility</b> of persecution on account of a protected ground:</p> <ul style="list-style-type: none"> <li>• The harm feared is sufficiently serious to amount to persecution;</li> <li>• The applicant 1) either <u>possesses</u> a protected characteristic of which the feared entity is or could become <u>aware</u> or the feared entity believes that the applicant possesses a protected characteristic, and 2) the feared entity has the <u>capability</u> and <u>inclination</u> to persecute the applicant, OR there is a <u>pattern or practice</u> of persecution of a group of persons similarly situated to the applicant on account of a protected ground; and</li> <li>• Under all the circumstances, it would not be reasonable for the applicant to relocate within the applicant's country to avoid future persecution.</li> </ul>                                                                                                                         |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>C.3. <u>Written Analysis:</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |          |            |                                                                        |

Race ☐ Religion ☐ Nationality ☐ Membership in a Particular Social Group ☐ Political Opinion ☐

If reasonable possibility of persecution established, identify the protected ground and specify:

*As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

**D. Torture** (Select D.1. as needed and complete D.2.)

**D.1.** There is a **reasonable possibility** that:

- The feared harm would be specifically intended to inflict severe pain or suffering on the applicant;
- The feared harm would constitute severe physical or mental pain or suffering;
- The feared harm would be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity;
- The applicant would be in the offender's custody or physical control; **and**
- The harm would not arise only from or be inherent in or incidental to lawful sanctions.

In making this determination, the following evidence must be considered:

- Evidence of past torture inflicted upon the applicant;
- Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;
- Evidence of gross, flagrant or mass violations of human rights within the country of removal; and other relevant information regarding conditions in the country of removal.

If the applicant has established past torture **AND** there are no changes in circumstances so substantial such that the applicant does not have a reasonable fear of torture, the applicant will be found to have established a reasonable fear of torture.

Yes ☐

No ☐

**D.2. Written Analysis:** *As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

**Record of Negative Credible/Reasonable Fear Finding and  
Request For Review by Immigration Judge for Aliens Barred  
From Asylum Pursuant to 8 CFR 208.13(c)(4)**

Alien File Number: \_\_\_\_\_

**1. To be explained to the alien by the asylum officer:**

**A.** U.S. Citizenship and Immigration Services (USCIS) has determined that you are an alien described in 8 CFR 208.13(c)(4) and therefore, you have not established a credible fear because you cannot show a significant possibility of establishing eligibility for asylum.

**B.** You have not established a reasonable fear with respect to your application for withholding of removal under INA 241(b)(3) or withholding or deferral of removal under the Convention Against Torture pursuant to 8 CFR 208.16 for the following reason(s):

- ☐ You have not established a reasonable fear of persecution in a country to which you have been ordered removed because:
- ☐ You have not indicated that you were harmed in the past and you have not expressed fear of future harm.
  - ☐ There is no reasonable possibility that the harm you experienced and/or the harm you fear is on account of your race, religion, nationality, political opinion, or membership in a particular social group.
  - ☐ You have not indicated that you were harmed in the past, or there is no reasonable possibility that the past harm or the harm you fear in the future constitutes persecution.
  - ☐ There is no reasonable possibility that you would suffer the harm you fear.
  - ☐ You could reasonably avoid persecution by relocating within your country.

**AND**

- ☐ You have not established a reasonable fear of torture in a country to which you may be removed because you have not established that there is a reasonable possibility that:
- ☐ You would suffer severe physical or mental pain or suffering.
  - ☐ The harm you fear would be specifically intended to inflict severe physical or mental pain or suffering.
  - ☐ The harm you fear would be inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity.
  - ☐ The harm you fear would be inflicted while you are in the custody or physical control of the offender.
  - ☐ The harm you fear would not arise only from, would not be inherent in, and would not be incidental to, lawful sanctions.

**C.** ☐ Considering the totality of the circumstances and all relevant factors, you have not established that your testimony is credible.

Therefore, you are ordered removed from the United States. You may request that an Immigration Judge review this decision.

If you request that an Immigration Judge review this decision, you will remain in detention until an Immigration Judge reviews your case. That review could occur as long as 7 days after you receive this decision.

If you indicate below that do not request that an Immigration Judge review the decision, you may be removed from the United States immediately.

**2. To be completed by the alien:**

- ☐ **Yes, I request Immigration Judge review** of the decisions that I do not have a credible fear of persecution or torture and that I do not have a reasonable fear of persecution or torture.
- ☐ **No, I do not request Immigration Judge review** of the decisions that I do not have a credible fear of persecution or torture and that I do not have a reasonable fear of persecution or torture.

\_\_\_\_\_  
Applicant's Last Name/ Family Name (Print)

\_\_\_\_\_  
Applicant's First Name (Print)

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Asylum Officer's Last Name (Print)

\_\_\_\_\_  
Asylum Officer's First Name, (Print)

\_\_\_\_\_  
Date

The contents of this form were read and explained to the applicant in the \_\_\_\_\_ language

Interpreter used:

By telephone (list interpreter service /ID number used \_\_\_\_\_).

In person (I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.)

\_\_\_\_\_  
Interpreter's Signature

\_\_\_\_\_  
Date

**Record of Negative Credible/Reasonable Fear Finding and  
Request For Review by Immigration Judge for Aliens Barred  
From Asylum Pursuant to 8 CFR 208.13(c)(4)**

---

|                            |                             |                     |                           |
|----------------------------|-----------------------------|---------------------|---------------------------|
| _____                      | _____                       | _____               | _____                     |
| District Office Code       | Asylum Office Code          | Alien's File Number | Alien's Last/ Family Name |
| _____                      | _____                       | _____               | _____                     |
| Asylum Officer's Last Name | Asylum Officer's First Name | Alien's Nationality | _____                     |

*All statements in italics must be read to the applicant*

**SECTION I:**

**INTERVIEW PREPARATION**

- 1.1 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.2 \_\_\_\_\_  
Date of arrival [MM/DD/YY] Port of arrival
- 1.3 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.4 \_\_\_\_\_  
Date of detention [MM/DD/YY] Place of detention
- 1.5 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.6 \_\_\_\_\_  
Date of AO orientation [MM/DD/YY] If orientation more than one week from date of detention, explain delay
- 1.7 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.8 \_\_\_\_\_  
Date of interview [MM/DD/YY] Interview site
- 1.9 ☐ Applicant received and signed **Form M-444** and relevant *pro bono* list on \_\_\_\_\_  
Date signed [MM/DD/YY]
- 1.10 Does applicant have consultant(s)? ☐ Yes ☐ No
- 1.11 If yes, consultant(s) name, address, telephone number and relationship to applicant  
\_\_\_\_\_  
\_\_\_\_\_
- 1.12 Persons present at the interview (check which apply)
- 1.13 ☐ Consultant(s)
- 1.14 ☐ Other(s), list: \_\_\_\_\_
- 1.15 ☐ No one other than applicant and asylum officer
- 1.16 Language used by applicant in interview:
- 1.17 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.18 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.19 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.20 ☐ Interpreter **was not changed** during the interview
- 1.21 ☐ Interpreter **was changed** during the interview for the following reason(s):
- 1.22 ☐ Applicant requested a female interpreter replace a male interpreter, or *vice versa*
- 1.23 ☐ Applicant found interpreter was not competent 1.24 ☐ Applicant found interpreter was not neutral
- 1.25 ☐ Officer found interpreter was not competent 1.26 ☐ Officer found interpreter was not neutral
- 1.27 ☐ Bad telephone connection
- 1.28 ☐ Asylum officer read the following paragraph to the applicant at the beginning of the interview:

*The purpose of this interview is to determine whether you may be eligible for asylum or protection from removal to a country where you fear persecution or torture. I am going to ask you questions about why you fear returning to your country or any other country you may be removed to. It is very important that you tell the truth during the interview and that you respond to all of my questions. This may be your only opportunity to give such information. Please feel comfortable telling me why you fear harm. U.S. law has strict rules to prevent the disclosure of what you tell me today about the reasons why you fear harm. The information you tell me about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances. The statements you make today may be used in deciding your claim and in any future immigration proceedings. It is important that we understand each other. If at any time I make a statement you do not understand, please stop me and tell me you do not understand so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain.*



Alien's File Number:

**SECTION II:**

**BIOGRAPHIC INFORMATION**

2.1 \_\_\_\_\_  
Last Name/ Family Name [ALL CAPS]

2.2 \_\_\_\_\_ 2.3 \_\_\_\_\_  
First Name Middle Name

2.4 \_\_\_\_/\_\_\_\_/\_\_\_\_ 2.5 Gender ☐ Male ☐ Female  
Date of birth [MM/DD/YY]

2.6 \_\_\_\_\_  
Other names and dates of birth used

2.7 \_\_\_\_\_ 2.8 \_\_\_\_\_  
Country of birth Country (countries) of citizenship (list all)

2.9 \_\_\_\_\_  
Address prior to coming to the U.S. (List Address, City/Town, Province, State, Department and Country).

2.10 \_\_\_\_\_ 2.11 \_\_\_\_\_ 2.12 \_\_\_\_\_  
Applicant's race or ethnicity Applicant's religion All languages spoken by applicant

2.13 Marital status: ☐ Single ☐ Married ☐ Legally separated ☐ Divorced ☐ Widowed

2.14 Did spouse arrive with applicant? ☐ Yes ☐ No

2.15 Is spouse included in applicant's claim? ☐ Yes ☐ No

2.16 If currently married (including common law marriage) list spouse's name, citizenship, and present location (if with applicant, provide A-Number):  
\_\_\_\_\_  
\_\_\_\_\_

2.17 Children: ☐ Yes ☐ No

2.18 List any children (Use the continuation section to list any additional children):

| Date of birth<br>(MM/DD/YY) | Name  | Citizenship | Present location (if w/PA,<br>list A-Numbers) | Did child<br>arrive with<br>PA?<br><input type="checkbox"/> Yes <input type="checkbox"/> No | Is child<br>included in<br>PA's claim?<br><input type="checkbox"/> Yes <input type="checkbox"/> No |
|-----------------------------|-------|-------------|-----------------------------------------------|---------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |

Alien's File Number:

2.19 Does applicant claim to have a medical condition (physical or mental), or has the officer observed any indication(s) that a medical condition exists? If YES, answer questions 2.20 and 2.21 and explain below. ☐ Yes ☐ No

2.20 Has applicant notified the facility of medical condition? ☐ Yes ☐ No

2.21 Does applicant claim that the medical condition relates to torture? ☐ Yes ☐ No

2.22 Does the applicant have a relative, sponsor or other community ties, including spouse or child already listed above? ☐ Yes ☐ No

2.23 If YES, provide information on relative or sponsor (use continuation section, if necessary):

Name

Relationship

Address

Telephone Number

☐ Citizen ☐ Legal Permanent Resident ☐ Other

**SECTION III:**

**CREDIBLE FEAR INTERVIEW**

**The following notes are not a verbatim transcript of this interview.**

**These notes are recorded to assist the individual officer in making a credible fear determination and the supervisory asylum officer in reviewing the determination.**

**There may be areas of the individual's claim that were not explored or documented for purposes of this threshold screening.**

The asylum officer must elicit sufficient information related to both credible fear of persecution and credible fear of torture to determine whether the applicant meets the threshold screening. Even if the asylum officer determines in the course of the interview that the applicant has a credible fear of persecution, the asylum officer must still elicit any additional information relevant to a fear of torture. Asylum officers are to ask the following questions and may use the continuation sheet if additional space is required. If the applicant replies YES to any question, the asylum officer must ask follow-up questions to elicit sufficient details about the claim in order to make a credible fear determination.

3.1 a. *Have you or any member of your family ever been mistreated or threatened by anyone in any country to which you may be returned?* ☐ Yes ☐ No

b. *Do you have any reason to fear harm from anyone in any country to which you may be returned?*

☐ Yes ☐ No

c. If YES to questions *a* and/or *b*, was it or is it because of any of the following reasons? (Check each of the following boxes that apply).

☐ Race ☐ Religion ☐ Nationality ☐ Membership in a particular social group ☐ Political Opinion

Alien's File Number:

- 3.2 ☐ At the conclusion of the interview, the asylum officer must read the following to applicant:

*If the Department of Homeland Security determines you have a credible fear of persecution or torture, or, where applicable, a reasonable fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. If the asylum officer determines that you do not have a credible fear of persecution or torture, and, where applicable, you do not have a reasonable fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and, where applicable, you do not have a reasonable fear of persecution or torture, you do not request review, you **may be removed** from the United States as soon as travel arrangements can be made. Do you have any questions?*

- 3.3 ☐ At the conclusion of the interview, the asylum officer must read a summary of the claim, consisting of the responses to Questions 3.1 a-c and information recorded in the Additional Information/Continuation section, to applicant.

\*\*\*\*Typed Question and Answer (Q&A) interview notes and a summary and analysis of the claim must be attached to this form for all negative credible fear decisions. These Q&A notes must reflect that the applicant was asked to explain any inconsistencies or lack of detail on material issues and that the applicant was given every opportunity to establish a credible fear.

#### SECTION IV:

#### CREDIBLE FEAR FINDINGS

##### A. Credible Fear Determination (and reasonable fear determination, where applicable):

###### Credibility

- 4.1 ☐ Applicant found credible.  
4.2 ☐ Applicant found **not** credible.

###### Nexus

- 4.3 ☐ Race 4.4 ☐ Religion 4.5 ☐ Nationality 4.6 ☐ Membership in a Particular Social Group

(Define the social group): \_\_\_\_\_

- 4.7 ☐ Political Opinion 4.8 ☐ Coercive Family Planning [CFP] 4.9 ☐ No Nexus

###### Credible Fear Finding

- 4.10 ☐ Credible fear (or in the case of an alien determined to have no credible fear of persecution because he or she is barred from asylum pursuant to 8 CFR 208.13(c)(4), reasonable fear) of **persecution** established.

**OR**

- 4.11 ☐ Credible fear (or in the case of an alien determined to have no credible fear of persecution because he or she is barred from asylum pursuant to 8 CFR 208.13(c)(4), reasonable fear) of **torture** established.

**OR**

- 4.12 ☐ No fear of persecution or torture established.

##### B. Possible Bars:

- 4.13 ☐ Applicant could be subject to a bar(s) to asylum or withholding of removal (check the box(es) that applies and explain on the continuation sheet):

- 4.14 ☐ Particularly Serious Crime 4.15 ☐ Security Risk 4.16 ☐ Aggravated Felon  
4.17 ☐ Persecutor 4.18 ☐ Terrorist 4.19 ☐ Firmly Resettled  
4.20 ☐ Serious Non-Political Crime Outside the United States  
4.21 ☐ Applicant does **not** appear to be subject to a bar(s) to asylum or withholding of removal.

Alien's File Number:

**C. Identity:**

- 4.22 ☐ Applicant's identity was determined with a reasonable degree of certainty (check the box(es) that applies):
- 4.23 ☐ Applicant's own credible statements. (If testimony is credible overall, this will suffice to establish the applicant's identity with a reasonable degree of certainty).
- 4.24 ☐ Passport which appears to be authentic.
- 4.25 ☐ Other evidence presented by applicant or in applicant's file (List): \_\_\_\_\_
- 4.26 ☐ Applicant's identity was **not** determined with a reasonable degree of certainty. (Explain on the continuation sheet.)

**SECTION V: ASYLUM OFFICER / SUPERVISOR NAMES AND SIGNATURES**

|                                                      |                                         |                                                         |
|------------------------------------------------------|-----------------------------------------|---------------------------------------------------------|
| 5.1 _____<br>Asylum officer name and ID CODE (print) | 5.2 _____<br>Asylum officer's signature | 5.3 ____/____/____<br>Decision date                     |
| 5.4 _____<br>Supervisory asylum officer name         | 5.5 _____<br>Supervisor's signature     | 5.6 ____/____/____<br>Date supervisor approved decision |

**ADDITIONAL INFORMATION/CONTINUATION**

Alien is barred from asylum pursuant to 8 CFR 208.13(c)(4) and therefore the alien has not established a significant possibility of establishing eligibility for asylum and has received a negative credible fear of persecution determination. Alien was then screened for potential entitlement to withholding under INA 241 or CAT protection under a "reasonable possibility of persecution" and "reasonable possibility of torture" standard.

**Memo to File**

**For Alien**

**Barred From Asylum Pursuant to 8 CFR 208.13(c)(4)**

From: **[Asylum Office Name]**

RE: **[Alien name, A#]**

**[Dependent name, A#]**

At the interview:

- The Asylum Officer informed the individual that the officer had determined, based upon the individual's testimony and the other evidence in the record, that the individual is barred from asylum under 8 CFR § 208.13(c)(4), and therefore unable to establish a credible fear with respect to his or her application for asylum.
- As a result of the above determination, the Asylum Officer read the following paragraph to the individual:

The purpose of the remainder of the interview is to determine if you have a reasonable fear of persecution or torture. If it is determined that you have a reasonable possibility of being persecuted or tortured in the country to which you will be ordered removed, you will receive a Notice to Appear for a hearing in immigration court for consideration of your claim for withholding of removal under section 241(b)(3) of the Act, or for withholding or deferral of removal under the Convention Against Torture. If it is determined that you do not have a reasonable possibility of being persecuted or tortured, then you may ask to have an immigration judge review that decision. During that immigration judge review, you may also request review of the determination that you do not have a credible fear of persecution because you are barred from asylum under 8 CFR § 208.13(c)(4).



U.S. Citizenship  
and Immigration  
Services

# Third-Country Transit bar



**Guidance for Asylum Officers and  
Asylum Office Staff**

07/16/2019

# Roadmap



U.S. Citizenship  
and Immigration  
Services

- Background/Legal Framework
- Overview of Third-Country Transit Bar
- Exceptions to Bar
- Revised Credible Fear Process
- Mandatory Bar Determination
- Screening Interview and Evidence
- Case Processing
- Post-Decision and Service

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# Background/Legal Framework



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- INA §§ 208(b)(2)(C), (d)(5)(B) – Delegation of authority to Attorney General and Secretary of Homeland Security ("Secretary") to promulgate regulations establishing additional bars to asylum
- 8 CFR § 208.13(c)(4) – "Notwithstanding the provisions of 8 CFR 208.15, any alien who enters, attempts to enter, or arrives in the United States across the southern land border on or **after July 16, 2019**, shall be found ineligible for asylum
- 8 CFR § 208.30(e)(5) – "If the alien is found to be an alien described as ineligible for asylum in 8 CFR 208.13(c)(4), then the asylum officer shall enter a negative credible-fear determination with respect to the alien's application for asylum. The Department shall nonetheless place the alien in proceedings under section 240 of the Act for consideration of the alien's claim for withholding of removal under section 241(b)(3) of the Act, or for withholding or deferral of removal under the Convention Against Torture, if the alien establishes, respectively, a reasonable fear of persecution or torture. "

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# Overview of Bar



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- With limited exceptions, aliens who enter or attempt to enter the United States across the southern border after failing to apply for protection in a country through which they transited en route to the United States are ineligible for asylum.
- Applies to affirmative asylum applications and credible fear screenings
- Does not modify withholding or deferral of removal proceedings
- Applies only prospectively to aliens who enter or arrive in the United States on or after effective date of this rule.
- Exceptions may apply

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# Exceptions to Bar



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- A) Applied for protection in at least one country en route to the United States and received final judgment denying protection in such country
- B) Found to be a "victim of a severe form of trafficking in persons" (8 CFR § 214.11)
- C) En route to the United States only transited through countries were, at the time of transit, not a party to the Refugee Convention/Protocol, or the Convention Against Torture (CAT)

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## Exception A: Application for Protection



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- The alien demonstrates that:
  - He or she applied for protection from persecution or torture in at least one country outside of the alien's country of nationality or last habitual residence through which the alien transited en route to the U.S., *and*
  - The alien received a final judgment denying the alien protection in such country.

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## Exception B: Trafficking



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- The alien demonstrates that:
  - He or she satisfies the definition of “victim of a severe form of trafficking in persons” provided by 8 CFR 214.11

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## Exception C: Non-Party Transit Countries



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- The alien demonstrates that:
  - The only transit countries through which the alien transited en route to the U.S., at the time of transit, were not parties to the
    - 1951 UN Convention Relating to the Status of Refugees;
    - 1967 Protocol Relating to the Status of Refugees; or
    - UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.
- Note: Mexico is a party to the Conventions and Protocol

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## Revised CF Screening for Aliens Subject to the New Asylum Bar



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- Under amended 8 CFR 208.30(e)(5), any alien placed into expedited removal who is referred for a CF screening and who is determined to be ineligible for asylum under the new 8 CFR 208.13(c)(4) shall
  - Receive a negative credible fear determination with respect to the alien's intention to apply for asylum; and
  - Have any claim to eligibility for withholding of removal or protection under CAT considered under the reasonable possibility reasonable fear standard **instead of** the significant possibility credible fear standard

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## Credible Fear Process – Jurisdiction and Family Cases



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- Jurisdiction: no change
  - Interim Final Rule does not alter the referral process
  - Asylum Office must receive all jurisdictional documents listed at CFPM III.B. prior to adjudicating the case
  - AO and SAO must confirm that the Asylum Division has proper jurisdiction in each case
  
- Family Cases: no change

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## Credible Fear Process—Application of Bar



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- Determine if bar applies by completing Third-Country Transit Bar Worksheet
  - *Note: If alien did not enter or attempt to enter the United States across the southern border on or after implementation date, then bar does not apply. Do not fill out a Third-Country Transit Bar Worksheet.*
- If entered by land from Mexico, bar applies unless exception found
- Ensure record supports determination alien entered, attempted to enter, or arrived in the United States *across the southern land border*
- Will need to elicit testimony to determine if bar applies and if there is exception
- Elicit enough testimony to make a determination whether the applicant is a trafficking victim if bar applies and no other exception available to alien

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## Credible Fear Process – Application of Bar - Worksheet



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- Did alien enter or attempt to enter the United States across the southern border on or after implementation date?
  - *I-213, I-867A/B, other documents*
  - *Interview*
- Did the individual transit through any country apart from his or her country of nationality (or last habitual residence) en route to the United States?
  - *I-213, I-867A/B, other documents*
  - *Interview*

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## Credible Fear Process– Application of Bar - Worksheet



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and Immigration  
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- If alien transited through at least one country en route that is a party to the Refugee Convention/Protocol or CAT, did alien apply for and was s/he denied protection in at least one such country?
  - If yes → *Exception A found*
- Did the alien establish that s/he meets the definition of "victim of a severe form of trafficking in persons"?
  - If yes → *Exception B found*
- The only countries through which the alien transited en route to the United States, at the time of the transit, were not parties a party to the Refugee Convention/Protocol or CAT?
  - If yes → *Exception C found*

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## Credible Fear Process– Application of Bar - Worksheet



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- Conduct interview to determine if bar applies and whether there is an exception
- Complete Third-Country Transit Bar Worksheet
- If no exception applies, complete Orientation Memo to File and proceed with RF interview
- Complete applicable CF Checklist

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# Credible Fear Process – CF Checklist



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- If bar does not apply because the alien is eligible for exception
  - → use Credible Fear Checklist 1 (dated 5.6.19)
- If bar does apply because no exception is available
  - → use Credible Fear Checklist 3 (Where a determination is made that the bar applies, limits screening to solely determine eligibility for withholding of removal and protection under the Convention Against Torture using the "reasonable possibility" standard)
- Note: Credible Fear Checklist 2 relates to 8 CFR 208.13(c)(3) (EWI proclamation)

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# Screening Interview and Evidence



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- As always, will need to determine if applicant is credible as to both bar determination and screening determination
- If bar applies → reasonable possibility standard
- If bar does not apply or bar applies and there is an exception → significant possibility standard

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# Case Processing



U.S. Citizenship  
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- Orientation Memo to File: When the AO determines that the bar applies, the adjudicator must explain to the alien that he or she will be screened according to the reasonable possibility standard and complete and memo to file.
- Note: Orientation Memo to File is not required if the alien is not subject to the bar or if the individual establishes an exception to the bar.

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# Case Processing



U.S. Citizenship  
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## ■ Forms:

- Use I-870 dated 7.16.19 for all cases
- On p. 5, only keep the paragraph under "additional information / continuation" when the individual is barred and no exceptions apply. Delete it for all other situations.
- Orientation Memo to File for individuals who are subject to the bar
- When the bar applies, use I-869A instead of I-869 to document negative determinations
- NTA for all positive determinations, regardless of whether bar applies

## ■ Global:

- If individual is barred: select special group code "bar - 13(c)(4)"
- If individual establishes an exception to the bar: select special group code "no bar - 13(c)(4)"
- NOTE: if individual is not subject to the bar do not select either special group code

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# Post-Interview and Service



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- Include in File
  - *Third-Country Transit Bar Worksheet should be placed in the file*
  - *Orientation Memo to File should be placed in the file*
- No change to service of determination otherwise
- Additional guidance
  - *Check box 1 on I-863*

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Guidance on electronically signing PDFs is available here:

<https://helpx.adobe.com/acrobat/11/using/signing-pdfs.html>.

Provide Assessment Worksheet and Assessment Notice to CBP.





| NOT SUBJECT TO 208.13(c)(4) Bar                                                                                        | SUBJECT TO 208.13(c)(4) Bar                        |
|------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| M-444                                                                                                                  | M-444 + Memo to File                               |
| I-870 dated 7.16.19                                                                                                    | I-870 dated 7.16.19                                |
| Global: If individual is subject to the bar but establishes an exception, select special group code "no bar - 3(c)(4)" | Global: Select special group code "bar - 13(c)(4)" |
| Credible Fear Standard                                                                                                 | Reasonable Fear Standard (no Chen/OSH)             |
| Screen for asylum, withholding, CAT                                                                                    | Screen for withholding and CAT                     |
| Checklist 1                                                                                                            | Checklist 3                                        |
| Positive Determination: I-862 (NTA)                                                                                    | Positive Determination: I-862 (NTA)                |
| Negative Determination: I-869 + I-863                                                                                  | Negative Determination: I-869A + I-863             |
| Flag other possible mandatory bars                                                                                     | Flag other possible mandatory bars                 |

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## Additional Resources



U.S. Citizenship  
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- Trafficking Lesson Plan
- RAIO Research Unit ECN country pages
- Other Asylum and RAIO Lesson Plans

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Andre, Lisa S

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**From:** Andre, Lisa S  
**Sent:** Wednesday, August 21, 2019 2:45 PM  
**To:** SESSION, SHONE D; LEDEZMA, ARMANDO; RIVERA4, LUIS; LEMUS, MIGUEL A; Perez, Ubaldo  
**Subject:** FW: Interim Final Rule and CF for USBP  
**Attachments:** Orientation memo to file July 16 2019.docx; ATT00001.htm; Form I-869A July 16 2019.docx; ATT00002.htm; CF Checklist 3 (effective 7.16.19).docx; ATT00003.htm; 208.13(c)(4) Mandatory Bar Worksheet 7.16.19 Updated.docx; ATT00004.htm; I-870 Annotated 7.16.19.doc; ATT00005.htm; Reasonable Fear Standard of Proof and Eligibility Overview Slides August 2019.pptx; ATT00006.htm; Third Country Asylum Bar Training 2019-07-16 updated.pptx; ATT00007.htm; FW: Amended Guidance on the Interim Final Rule and the 9th Circuit Injunction .msg; ATT00008.htm

All – Below is the email that was initially sent regarding the IFR. Several applicable materials are attached. The training will cover the majority of these issues so this is just for reference.

Note that there is still an injunction on the IFR in the 9<sup>th</sup> circuit so any cases in which the applicant was apprehended in the 9<sup>th</sup> circuit or in which the applicant is currently detained in the 9<sup>th</sup> circuit would be adjudicated in line with the guidance you have received thus far. (California is in the 9<sup>th</sup> circuit so the IFR doesn't apply to ZLA cases but may apply to ZHN cases.)

Thanks!

**From:** Lafferty, John L <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)>  
**Sent:** Monday, July 15, 2019 8:38 PM  
**To:** RAIO - Asylum Field Office Managers <[RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov](mailto:RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov)>; RAIO - Asylum HQ <[RAIO-Asylum@uscis.dhs.gov](mailto:RAIO-Asylum@uscis.dhs.gov)>; RAIO - Asylum Field Office Staff <[RAIO-Test@uscis.dhs.gov](mailto:RAIO-Test@uscis.dhs.gov)>  
**Cc:** RAIO - Executive Leadership <[RAIO-ExecutiveLeadership@uscis.dhs.gov](mailto:RAIO-ExecutiveLeadership@uscis.dhs.gov)>  
**Subject:** Interim Final Rule - Asylum Eligibility and Procedural Modifications

Asylum Division colleagues,

Earlier today, a joint Department of Justice and Department of Homeland Security Interim Final Rule (IFR) titled, *Asylum Eligibility and Procedural Modifications*, was posted by the Federal Register for public inspection. The new rule is scheduled to be officially published in the Federal Register and go into effect tomorrow, July 16, 2019. Below is a summary of what the regulation says and how it will impact our work going forward:

Aliens covered by the IFR

Under the new 8 CFR § 208.13(c)(4), any alien who enters, attempts to enter, or arrives in the US across the southern land border on or after **July 16, 2019**, is ineligible for asylum, unless the alien

- Demonstrates that he or she applied for protection from persecution or torture in at least one country outside his or her country of nationality or last habitual residence through which he or she transited in route to the US, and the alien received a final judgement denying the alien protection in such country,
- Demonstrates that he or she satisfies the definition of victim of a severe form of trafficking in persons

DHS-19-1398-A-000474

provided in 8 CFR 214.11 (everyone should have received training on this during your initial officer training; please refer to your *Detecting Possible Victims of Trafficking* RAO Combined Training Course training module for guidance), or

- The only countries through which the alien transited in route to the US, at the time of transit, were not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, or the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (at present, those countries would be Bhutan, Grenada, Kiribati, Malaysia, Micronesia, Myanmar, North Korea, Oman, Singapore, and Tonga)

Nothing in the IFR limits an alien from being considered for withholding of removal or protection under CAT, or limits the processes applied to UACs pursuant to TVPRA.

#### Revised CF screening for aliens subject to the new asylum bar

In addition, under the newly amended regulation at 8 CFR § 208.30(e)(5)(iii), any alien placed into expedited removal who is referred to us for a credible fear screening and who is determined to be ineligible for asylum under the new 8 CFR § 208.13(c)(4) shall

- Receive a negative credible finding as to any asylum claim under INA Section 208; and
- Have any claim to eligibility for withholding of removal or protection under the Convention Against Torture considered under the “reasonable possibility” reasonable fear screening standard **instead of** the “significant possibility” credible fear screening standard.

Besides this changed screening standard for withholding and CAT, all the other usual CF screening procedures and rules apply to these cases, including issuing someone who receives a positive fear finding a Notice to Appear (NTA) to place the person into INA Section 240 removal proceedings.

Below you will find some more detailed “nuts and bolts” instructions for how to handle CF cases impacted by these changes. Further instructions for how we will process affirmative asylum claims impacted by these changes will be forthcoming.

Finally, let me give you a few key takeaways:

- No changes are being made at this time to our processing and screening of Reasonable Fear referrals under 8 CFR § 208.31;
- No changes are being made at this time to our processing and screening of Credible Fear referrals for those aliens who are not impacted by the new asylum bar;
- We have been doing Reasonable Fear screenings for years; conducting RF screenings for aliens impacted by the new asylum bar should be no different;
- The new bar to asylum will apply to affirmative asylum applications, but only for individuals who entered, attempted to enter, or arrived in the US across the southern land border on or after July 16, 2019. It will likely be several weeks or months before we interview and adjudicate any affirmative asylum cases that are impacted by this bar.

We are once again being asked to adapt, and to do so with very little time to train and prepare. If I didn’t know that we have some of the most dedicated, most adaptable, and most talented public servants presently serving in the federal government, I would be concerned about being able to implement these changes on such short notice. Fortunately, each of you are all of those things and much, much more.

I fully expect there to be many questions as this is implemented in the coming days and weeks. Please bring those questions forward to your office leadership so that we can attempt to respond as quickly as possible, and share those responses with the other offices.

Thanks!

John

SUBJECT: Updated Procedures for Implementing the Interim Final Rule

Effective beginning July 16, 2019, and pursuant to 8 CFR 208.13(c)(4), this message provides updated procedures for the processing of Credible Fear cases. In particular, this guidance modifies the Credible Fear of Persecution and Torture Determinations Lesson Plan ("Credible Fear Lesson Plan"), the Credible Fear Procedures Manual, and all other prior guidance documentations and memorandums that are inconsistent with the Interim Final Rule published on July 16, 2019.

Instructions on the impact of this IFR on affirmative asylum processing will be forthcoming. To be subject to the bar the alien must enter, attempt to enter, or arrive in the US across the southern land border on or after July 16, 2019.

These updated procedures are effective immediately and apply to any APSO screening determination issued after July 15, 2019. All asylum offices are responsible for conducting field training for staff on these updated procedures as soon as practicable, no later than one week from today. A PowerPoint training is attached.

Officers **must be trained on reasonable fear** to adjudicate cases subject to the IFR.

Aliens placed in the expedited removal process under INA §235(b)(1) must be referred to USCIS for a credible fear screening if they express a fear of returning to their country. These new procedures only apply to aliens who enter, attempt to enter, or arrive in the US across the southern land border. Cases where aliens enter or attempt to enter or arrive in other locations should follow current Asylum Division Credible Fear Procedures.

#### Jurisdiction

The Interim Final Rule does not alter the referral process. The Asylum Office must receive all the jurisdictional documents listed at III.B. of the Credible Fear Procedures Manual prior to adjudicating the case. The AO and SAO must confirm that the asylum division has proper jurisdiction in each case.

#### Interview

Prior to interviewing a case, the asylum officer should review jurisdictional documents (such as the I-213, I-860, I-867A and B) to ascertain the alien's date and manner of entry into the United States.

Jurisdictional documents alone are not enough to establish the application of the bar. An asylum officer must also elicit information regarding potential exceptions and complete the Third-Country Transit Bar Worksheet.

If the officer establishes that the bar applies and that no exceptions to the bar are applicable, the officer should inform the alien that the reasonable possibility standard will apply to the claim. This explanation should be documented in an orientation memo to file (see attached memo).

Once the officer establishes that the bar applies, the officer will make a negative credible fear finding as to asylum and interview the alien to determine if he or she meets the reasonable possibility standard for persecution and the Convention Against Torture. Please see the Reasonable Fear of Persecution and Torture Determinations Lesson Plan for more information on this standard.

#### Case Processing

1. **Third-Country Transit Bar Worksheet:** Must be completed for all individuals who entered, attempted to enter, or arrived in the US across the southern land border on or after **July 16, 2019**.

2. **Orientation Memo to File:** When the AO determines that the bar applies, the adjudicator must explain to the alien that he or she will be screened according to the reasonable possibility standard and complete a memo to file. The memo is not required if the alien is not subject to the bar or if he or she establishes that the bar does not apply.
3. **I-870:** Use I-870 dated 7/11/19 for all cases.
4. **CF Checklist:** For applicants barred for asylum, please use the “Credible Fear Determination Checklist and Written Analysis for Applicants in Expedited Removal Found Barred from Asylum Pursuant to 208.13(c)(4).” (Checklist 3). Checklist 3 contains instructions regarding the applicable legal standard.
5. **I-869A:** Use I-869A instead of I-869 to document negative determinations for applicants who are barred and are screened using the reasonable fear standard.
6. **Global:** Only for cases subject to IFR, offices select special group code “**bar - 13(c)(4)**.” If the individual establishes an exception to the bar, offices select special group code “**no bar - 13(c)(4)**.” Officers, SAOs and all involved in case processing are reminded to make sure that one of these special group codes **must be selected** whenever the individual interviewed is comes within the scope of this new IFR bar.

If you have any questions concerning the procedures contained in this memorandum, please contact the headquarters APSO point or points of contact. We will be updating the Credible Fear Lesson Plan and Credible Fear Procedures Manual in the future.

Attachments: Third-Country Transit Bar Worksheet  
Orientation memo to file  
I-870, dated 7/11/19  
CF Checklist 3  
I-869A  
PPT

### Third-Country Transit Bar Worksheet (8 CFR 208.13(c)(4))

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |             |                 |                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------|-------------------------------------|
| A#:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Alien Name: | AO Name/Number: | Date:                               |
| <b>A. Arrival Date</b> <i>(If checking “no”, bar does not apply and this form does not need to be completed.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |             |                 |                                     |
| Did the alien enter, attempt to enter, or arrive in the United States <i>across the southern land border</i> on or after July 16, 2019?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |             |                 | <b>Yes</b> <input type="checkbox"/> |
| Explanation:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |             |                 | <b>No</b> <input type="checkbox"/>  |
| <b>B. 8 CFR 208.13(c)(4) Mandatory Bar Analysis</b> <i>(If checking “no” in box B.1, do not complete boxes B.2, B.3 and B.4 as an exception applies. If checking “yes” in boxes B.1 and B.2, B.3 or B.4, then an exception applies. If checking “yes” in boxes B.1 and “no” in boxes B.2, B.3 and B.4, then bar applies and there is no exception available.)</i>                                                                                                                                                                                                                                                                                                                                                             |             |                 |                                     |
| 1. <b>Transit:</b> Did the alien transit through any country apart from his or her country of nationality (or last habitual residence) en route to the United States?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |             |                 | <b>Yes</b> <input type="checkbox"/> |
| List all applicable countries:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |             |                 | <b>No</b> <input type="checkbox"/>  |
| 2. <b>Protection Sought:</b> Did the alien demonstrate that s/he applied for protection in at least one country and received a final judgment denying protection?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |             |                 | <b>Yes</b> <input type="checkbox"/> |
| Evidence or Explanation:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |             |                 | <b>No</b> <input type="checkbox"/>  |
| 3. <b>Severe Trafficking Victim:</b> Did the alien demonstrate that s/he meets the definition of “victim of a severe form of trafficking in persons”, as defined in 8 CFR § 214.11?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |                 | <b>Yes</b> <input type="checkbox"/> |
| <p style="margin-left: 40px;">A severe form of trafficking in persons is defined as either:</p> <p style="margin-left: 40px;">a) Sex trafficking in which a commercial sex act is induced by:</p> <ul style="list-style-type: none"> <li><input type="radio"/> Force, fraud, or coercion, or</li> <li><input type="radio"/> Person induced is under the age of 18; <b>or,</b></li> </ul> <p style="margin-left: 40px;">b) Recruiting, harboring, transporting, provisioning, or obtaining a person for labor or services through the use of force, fraud, or coercion for subjection to:</p> <ul style="list-style-type: none"> <li><input type="radio"/> Involuntary servitude; peonage; debt bondage; or slavery</li> </ul> |             |                 | <b>No</b> <input type="checkbox"/>  |
| Explanation:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |             |                 |                                     |
| 4. <b>Protection Unavailable in Countries Transited:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |             |                 | <b>Yes</b> <input type="checkbox"/> |
| <p>The only countries through which the alien transited en route to the United States, were, at the time of the transit, not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, or the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.</p>                                                                                                                                                                                                                                                                                                                                      |             |                 | <b>No</b> <input type="checkbox"/>  |

### Third-Country Transit Bar Worksheet (8 CFR 208.13(c)(4))

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p><b>C. Decision</b></p> <p><i>If the alien established that the bar does not apply, or if an exception applies, continue processing as a credible fear or affirmative case.</i></p> <p><i>If the alien failed to establish that s/he is not barred:</i></p> <ul style="list-style-type: none"><li>• <i>If the alien is in expedited removal, continue screening for withholding and CAT using the <b>reasonable fear</b> standard.</i></li><li>• <i>If the alien filed affirmatively, complete interview and address the mandatory bar in the referral/denial.</i></li></ul> |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|



**CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS**  
**FOR APPLICANTS IN EXPEDITED REMOVAL FOUND BARRED FROM ASYLUM PURSUANT TO 208.13(c)(4)**  
**[JULY 16, 2019] [CHECKLIST 3]**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |          |            |                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------|------------------------------------------------------------------------|
| A#:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | COUNTRY: | APSO Name: | DATE:                                                                  |
| <p><i>By using this checklist, the adjudicator has determined that the applicant is barred for asylum pursuant to 8 C.F.R. 208.13(c)(4).</i></p> <p><i>If there is a reasonable possibility of persecution, complete Sections A., B., and C. If there is a reasonable possibility of torture, complete Sections A., B., and D. If there is not a reasonable possibility of persecution or torture, complete Sections A., B., C., and D. unless the claim fails in Section A.2. (Future Harm) or Section B. (Credibility), in which case, stop and complete Form I-870.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |          |            |                                                                        |
| <p><b>A. Harm</b> <i>(If yes to A.2., proceed with the analysis. If no to A.2., STOP and complete Form I-870.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |          |            |                                                                        |
| <p>1. Has the applicant testified that he or she has experienced <u>past</u> harm in his or her country?<br/> <i>If yes, identify any past harm or mistreatment suffered, and identify the relevant entity.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>2. Has the applicant testified that he or she fears <u>future</u> harm if returned to his or her country?<br/> <i>If yes, identify any harm or mistreatment feared, and identify the relevant entity. If no, explain and complete Form I-870.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p><b>B. Credibility</b> <i>(Select the appropriate box and analyze whether the applicant's testimony was credible or not credible.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |          |            |                                                                        |
| <p><b>Applicant's testimony was credible:</b> Considering the totality of the circumstances and all relevant factors, the applicant's testimony was consistent, detailed, and plausible. Therefore, it is found credible. <i>(Check box, explain only if overall decision is positive, and move to Section C. or D.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |          |            | <input type="checkbox"/>                                               |
| <p><b>Applicant's testimony was not credible:</b> Considering the identified credibility concern(s), the absence of reasonable explanations for those concerns, and taking into consideration the applicant's individual circumstances, the applicant's testimony is found not credible under the totality of the circumstances and all relevant factors. <i>(Check box, explain, STOP and complete Form I-870.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |          |            | <input type="checkbox"/>                                               |
| <p><b>C. Persecution</b> <i>(Select as needed. If yes to C.1. or C.2., complete C.3. If no to C.1 and C.2., complete C.3.)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |          |            |                                                                        |
| <p>1. a. <u>Past Persecution:</u> The applicant established that:</p> <ul style="list-style-type: none"> <li>• The harm experienced was sufficiently serious to amount to persecution;</li> <li>• The entity that harmed the applicant was motivated to harm the applicant on account of his or her race, religion, nationality, membership in a particular social group, or political opinion, applying the one central reason standard; and</li> <li>• The entity that harmed the applicant was an agent of the government or an entity that the government was unable or unwilling to control.</li> </ul> <p style="text-align: center;"><b>AND</b></p> <p>1. b. The presumption of well-founded fear has <b>not</b> been rebutted by a preponderance of the evidence that 1) there has been a fundamental change in circumstances such that the applicant no longer has a well-founded fear, or 2) it would be reasonable, under all the circumstances, for the applicant to relocate within the applicant's country to avoid future persecution.</p> |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>2. <u>Future Persecution:</u> The applicant established a <b>reasonable possibility</b> of persecution on account of a protected ground:</p> <ul style="list-style-type: none"> <li>• The harm feared is sufficiently serious to amount to persecution;</li> <li>• The applicant 1) either <u>possesses</u> a protected characteristic of which the feared entity is or could become <u>aware</u> or the feared entity believes that the applicant possesses a protected characteristic, and 2) the feared entity has the <u>capability</u> and <u>inclination</u> to persecute the applicant, OR there is a <u>pattern or practice</u> of persecution of a group of persons similarly situated to the applicant on account of a protected ground; and</li> <li>• Under all the circumstances, it would not be reasonable for the applicant to relocate within the applicant's country to avoid future persecution.</li> </ul>                                                                                                                         |          |            | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| <p>C.3. <u>Written Analysis:</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |          |            |                                                                        |

Race ☐ Religion ☐ Nationality ☐ Membership in a Particular Social Group ☐ Political Opinion ☐

If reasonable possibility of persecution established, identify the protected ground and specify:

*As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

**D. Torture** (Select D.1. as needed and complete D.2.)

**D.1.** There is a **reasonable possibility** that:

- The feared harm would be specifically intended to inflict severe pain or suffering on the applicant;
- The feared harm would constitute severe physical or mental pain or suffering;
- The feared harm would be inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity;
- The applicant would be in the offender's custody or physical control; **and**
- The harm would not arise only from or be inherent in or incidental to lawful sanctions.

In making this determination, the following evidence must be considered:

- Evidence of past torture inflicted upon the applicant;
- Evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured;
- Evidence of gross, flagrant or mass violations of human rights within the country of removal; and other relevant information regarding conditions in the country of removal.

If the applicant has established past torture **AND** there are no changes in circumstances so substantial such that the applicant does not have a reasonable fear of torture, the applicant will be found to have established a reasonable fear of torture.

Yes ☐

No ☐

**D.2. Written Analysis:** *As needed, provide a brief reasoned analysis. Focus on determinative factors, applying the eligibility elements to the facts.*

**Record of Negative Credible/Reasonable Fear Finding and  
Request For Review by Immigration Judge for Aliens Barred  
From Asylum Pursuant to 8 CFR 208.13(c)(4)**

Alien File Number: \_\_\_\_\_

**1. To be explained to the alien by the asylum officer:**

**A.** U.S. Citizenship and Immigration Services (USCIS) has determined that you are an alien described in 8 CFR 208.13(c)(4) and therefore, you have not established a credible fear because you cannot show a significant possibility of establishing eligibility for asylum.

**B.** You have not established a reasonable fear with respect to your application for withholding of removal under INA 241(b)(3) or withholding or deferral of removal under the Convention Against Torture pursuant to 8 CFR 208.16 for the following reason(s):

- ☐ You have not established a reasonable fear of persecution in a country to which you have been ordered removed because:
- ☐ You have not indicated that you were harmed in the past and you have not expressed fear of future harm.
  - ☐ There is no reasonable possibility that the harm you experienced and/or the harm you fear is on account of your race, religion, nationality, political opinion, or membership in a particular social group.
  - ☐ You have not indicated that you were harmed in the past, or there is no reasonable possibility that the past harm or the harm you fear in the future constitutes persecution.
  - ☐ There is no reasonable possibility that you would suffer the harm you fear.
  - ☐ You could reasonably avoid persecution by relocating within your country.

**AND**

- ☐ You have not established a reasonable fear of torture in a country to which you may be removed because you have not established that there is a reasonable possibility that:
- ☐ You would suffer severe physical or mental pain or suffering.
  - ☐ The harm you fear would be specifically intended to inflict severe physical or mental pain or suffering.
  - ☐ The harm you fear would be inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity.
  - ☐ The harm you fear would be inflicted while you are in the custody or physical control of the offender.
  - ☐ The harm you fear would not arise only from, would not be inherent in, and would not be incidental to, lawful sanctions.

**C.** ☐ Considering the totality of the circumstances and all relevant factors, you have not established that your testimony is credible.

Therefore, you are ordered removed from the United States. You may request that an Immigration Judge review this decision.

If you request that an Immigration Judge review this decision, you will remain in detention until an Immigration Judge reviews your case. That review could occur as long as 7 days after you receive this decision.

If you indicate below that do not request that an Immigration Judge review the decision, you may be removed from the United States immediately.

**2. To be completed by the alien:**

- ☐ **Yes, I request Immigration Judge review** of the decisions that I do not have a credible fear of persecution or torture and that I do not have a reasonable fear of persecution or torture.
- ☐ **No, I do not request Immigration Judge review** of the decisions that I do not have a credible fear of persecution or torture and that I do not have a reasonable fear of persecution or torture.

\_\_\_\_\_  
Applicant's Last Name/ Family Name (Print)

\_\_\_\_\_  
Applicant's First Name (Print)

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Asylum Officer's Last Name (Print)

\_\_\_\_\_  
Asylum Officer's First Name, (Print)

\_\_\_\_\_  
Date

The contents of this form were read and explained to the applicant in the \_\_\_\_\_ language

Interpreter used:

By telephone (list interpreter service /ID number used \_\_\_\_\_).

In person (I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.)

\_\_\_\_\_  
Interpreter's Signature

\_\_\_\_\_  
Date

**Record of Negative Credible/Reasonable Fear Finding and  
Request For Review by Immigration Judge for Aliens Barred  
From Asylum Pursuant to 8 CFR 208.13(c)(4)**

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**Caudill-Mirillo, Ashley B**

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**From:** Caudill-Mirillo, Ashley B  
**Sent:** Tuesday, August 20, 2019 12:44 PM  
**To:** RAIO - Asylum HQ  
**Subject:** FW: Amended Guidance on the Interim Final Rule and the 9th Circuit Injunction  
**Attachments:** 9 East Bay Covenant (Aug 16 2019).pdf  
**Importance:** High

**FOR INTERNAL USE ONLY**

Good afternoon HQ,

My apologies. I missed including our distribution list in my haste to get the guidance to the field.

Thanks!

---

**From:** Caudill-Mirillo, Ashley B <Ashley.Caudill-Mirillo@uscis.dhs.gov>  
**Sent:** Tuesday, August 20, 2019 9:30 AM  
**To:** RAIO - Asylum HQ Leadership <RAIO-AsylumHQLeadership@uscis.dhs.gov>; RAIO - Asylum Field Office Managers <RAIO-AsylumFieldOfficeManagers@uscis.dhs.gov>; RAIO - Asylum Field Office Staff <RAIO-Test@uscis.dhs.gov>; RAIO - Executive Leadership <RAIO-ExecutiveLeadership@uscis.dhs.gov>; RefugeeAffairsTDY <refugeeaffairstdy@uscis.dhs.gov>  
**Subject:** Amended Guidance on the Interim Final Rule and the 9th Circuit Injunction  
**Importance:** High

**FOR INTERNAL USE ONLY**

Asylum Division Staff,

As you know, the Ninth Circuit issued the attached decision in *East Bay v. Barr*, No. [19-16487](#) (9th Cir. Aug. 16, 2019) (*East Bay II*) partially granting and partially denying the Government's motion to stay the district court's preliminary injunction of the DOJ/DHS joint interim final rule, "Asylum Eligibility and Procedural Modifications," 84 Fed. Reg. 33,829 (July 16, 2019), i.e., the third country transit asylum bar IFR. The Ninth Circuit denied the motion for a stay pending appeal insofar as the injunction applies within the Ninth Circuit, but granted the motion for a stay pending appeal insofar as the injunction applies outside the Ninth Circuit. The initial guidance disseminated on August 17, 2019, is withdrawn and replaced by this guidance. Additional updates will be provided as necessary.

The third country transit asylum bar IFR remains preliminarily enjoined in the Ninth Circuit and therefore USCIS personnel still cannot rely on the third country transit asylum bar IFR when conducting credible fear screening interviews for cases arising in the Ninth Circuit, or when adjudicating asylum applications within the Ninth Circuit. USCIS personnel should continue to follow the processes in place prior to implementation of the IFR for credible fear screenings and asylum adjudications in the Ninth Circuit. However, because the court granted a stay of the preliminary injunction outside of the Ninth Circuit, the third country transit asylum rule is effective as to:

- (1) All credible fear screenings that are conducted or remain pending after August 16, 2019, for cases arising outside the Ninth Circuit, and
- (2) All asylum applications filed on or after July 16, 2019, that remain pending after August 16, 2019, outside of the Ninth Circuit. \*\*As a reminder, for asylum applications that are pending after August 16, 2019 outside of the Ninth Circuit, the IFR would apply, but the bar at 8 CFR 208.13(c)(4) only applies to

DHS-19-1398-A-000484



an alien who enters, attempts to enter, or arrives in the United States across the southern land border on or after July 16, 2019, after transiting through at least one country outside the alien's country of last citizenship, nationality, or last habitual residence en route to the United States, unless an exception applies. For purposes of determining whether the injunction applies, the IFR should not apply to any CF determination or asylum adjudication in which: (1) the alien was apprehended in the jurisdiction of the Ninth Circuit (California, Arizona, Nevada, Oregon, Washington, Idaho, Montana, Alaska, Hawaii, Guam, Northern Mariana Islands) or (2) the alien is in the jurisdiction of the Ninth Circuit when the credible fear screening is conducted or the claim is adjudicated.

Should you have any questions or concerns, please direct through your chain of command. It is also recommended you consult the guidance attached to the e-mail from Asylum Division Chief John Lafferty on July 15, 2019 entitled *Interim Final Rule – Asylum Eligibility and Procedural Modifications*.

Thanks,

Ashley

Ashley Caudill-Mirillo

Deputy Chief

Asylum Division

Refugee, Asylum, and International Operations

**FOR PUBLICATION**

**FILED**

UNITED STATES COURT OF APPEALS

AUG 16 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

EAST BAY SANCTUARY COVENANT;  
AL OTRO LADO; INNOVATION LAW  
LAB; CENTRAL AMERICAN  
RESOURCE CENTER,

Plaintiffs-Appellees,

v.

WILLIAM P. BARR, Attorney General;  
UNITED STATES DEPARTMENT OF  
JUSTICE; JAMES MCHENRY, Director of  
the Executive Office for Immigration  
Review, in his official capacity;  
EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW; KEVIN K.  
MCALEENAN, Acting Secretary of  
Homeland Security, in his official capacity;  
U.S. DEPARTMENT OF HOMELAND  
SECURITY; KENNETH T. CUCCINELLI,  
Acting Director of the U.S. Citizenship and  
Immigration Services, in his official  
capacity; JOHN P. SANDERS, Acting  
Commissioner of U.S. Customs and Border  
Protection, in his official capacity; UNITED  
STATES CITIZENSHIP AND  
IMMIGRATION SERVICES; U.S.  
CUSTOMS AND BORDER  
PROTECTION; MATTHEW ALBENCE,  
Acting Director of Immigration and  
Customs Enforcement, in his official  
capacity; IMMIGRATION AND  
CUSTOMS ENFORCEMENT,

No. 19-16487

D.C. No. 3:19-cv-04073-JST  
Northern District of California,  
San Francisco

ORDER

Defendants-Appellants.

Before: TASHIMA, M. SMITH, and BENNETT, Circuit Judges.

Appellants seek a stay pending appeal of the district court’s July 24, 2019 order preliminarily enjoining the Department of Justice and Department of Homeland Security’s joint interim final rule, “Asylum Eligibility and Procedural Modifications” (the “Rule”), 84 Fed. Reg. 33,829 (July 16, 2019).<sup>1</sup>

The district court found that the Rule likely did not comply with the Administrative Procedure Act’s (APA) notice-and-comment and 30-day grace period requirements because Appellants did not adequately support invocation of the “good cause” and “foreign affairs” exemptions under the APA. *See* 5 U.S.C. § 553(a)(1), (b)(1)(B), (d)(3); *Buschmann v. Schweiker*, 676 F.2d 352, 357 (9th Cir. 1982) (good cause exemption “should be interpreted narrowly so that the exception will not swallow the rule” (internal citations omitted)); *Yassini v. Crosland*, 618 F.2d 1356, 1360 n.4 (9th Cir. 1980) (foreign affairs exemption “would become distended” if applied to immigration rules generally and requires showing that ordinary public noticing would “provoke definitely undesirable

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<sup>1</sup> The State of Arizona’s amicus brief in support of Appellants’ motion has been filed. The Professors of Immigration Law’s motion for leave to file an amicus brief in opposition to Appellants’ motion (Docket Entry No. 28) is granted, and the brief is filed.



international consequences”). We conclude that Appellants have not made the required “strong showing” that they are likely to succeed on the merits on this issue. *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987).<sup>2</sup>

Consequently, we deny the motion for stay pending appeal (Docket Entry No. 3) insofar as the injunction applies within the Ninth Circuit.<sup>3</sup>

We grant the motion for stay pending appeal insofar as the injunction applies outside the Ninth Circuit, because the nationwide scope of the injunction is not

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<sup>2</sup> Our finding that Appellants have not made a “strong showing” does not bind the merits panel in reviewing this aspect of the merits, as that is not the standard the merits panel will apply. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

<sup>3</sup> We do not assess Appellants’ remaining arguments as to likelihood of success on the merits and do not reach the remaining *Hilton* factors. *See Nken v. Holder*, 556 U.S. 418, 435 (2009) (stating that the likelihood of success on the merits factor is one of the “most critical” and must be established before considering the last two stay factors); *cf. California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018) (“Likelihood of success on the merits is the most important factor; if a movant fails to meet this threshold inquiry, we need not consider the other factors.” (internal quotation marks omitted) (quoting *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017))).

supported by the record as it stands.<sup>4</sup> *Cf. City and County of San Francisco v. Trump*, 897 F.3d 1225, 1243–45 (9th Cir. 2018).<sup>5</sup>

An injunction must be “narrowly tailored to remedy the specific harm shown.” *Id.* at 1244 (quoting *Bresgal v. Brock*, 843 F.2d 1163, 1170 (9th Cir. 1987)). We have upheld nationwide injunctions where such breadth was necessary to remedy a plaintiff’s harm. *See, e.g., id.; California v. Azar*, 911 F.3d 558, 582 (9th Cir. 2018) (“Although there is no bar against nationwide relief in federal district court . . . such broad relief must be *necessary* to give prevailing parties the

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<sup>4</sup> The dissent, without citing any authority, argues that “it is [not] within a motions panel’s province to parse the record for error at this stage” and accuses us of “[going] beyond the recognized authority of a motions panel” by granting the motion for a stay pending appeal insofar as the injunction applies outside the Ninth Circuit. We have two responses.

First, we did not have to “parse” the record for error. Appellants’ stay motion specifically argues that the district court erred in imposing a nationwide injunction. Moreover, the three sentences that the district court provided to support the imposition of a nationwide injunction—none of which explains why it believed a nationwide injunction was necessary in this case—make clear that it failed to undertake the analysis necessary before granting such broad relief.

Second, other motions panels of our court have reviewed the scope of injunctive relief granted by district courts. *See, e.g., E. Bay Sanctuary Covenant v. Trump*, No. 18-17274, 2018 WL 8807133, at \*24 (9th Cir. Dec. 7, 2018); *Hawaii v. Trump*, No. 17-17168, 2017 WL 5343014, at \*1 (9th Cir. Nov. 13, 2017). We think these decisions illustrate that it is indeed within our province—our duty, even—to review whether the district court abused its discretion in granting a nationwide injunction.

<sup>5</sup> The dissent criticizes our reliance on *Trump*, 897 F.3d 1225, because the procedural posture in this case is different. We recognize this difference as we cite *Trump* as an analogous case supporting our decision because, notwithstanding the different procedural posture, the issue in that case—whether the scope of the injunction was appropriate—is the same issue before us. *See id.* at 1244–45.

relief to which they are entitled.” (internal quotation marks and alterations omitted) (quoting *Bresgal*, 843 F.2d at 1170–71)). These are, however, “exceptional cases.” *Trump*, 897 F.3d at 1244. To permit such broad injunctions as a general rule, without an articulated connection to a plaintiff’s particular harm, would unnecessarily “stymie novel legal challenges and robust debate” arising in different judicial districts. *Id.*; see also *Azar*, 911 F.3d at 583 (“The Supreme Court has repeatedly emphasized that nationwide injunctions have detrimental consequences to the development of law and deprive appellate courts of a wider range of perspectives.”).

Here, the district court failed to discuss whether a nationwide injunction is necessary to remedy Plaintiffs’ alleged harm. Instead, in conclusory fashion, the district court stated that nationwide relief is warranted simply because district courts have the authority to impose such relief in some cases and because such relief has been applied in the immigration context. The district court clearly erred by failing to consider whether nationwide relief is necessary to remedy Plaintiffs’ alleged harms. And, based on the limited record before us, we do not believe a nationwide injunction is justified.

Our dissenting colleague believes that a nationwide injunction is appropriate simply because this case presents a rule that applies nationwide. That view, however, ignores our well-established rule that injunctive relief “must be tailored

to remedy the specific harm alleged.” *Lamb-Weston, Inc. v. McCain Foods, Ltd.*, 941 F.2d 970, 974 (9th Cir. 1991) (citations omitted). Indeed, were we to adopt the dissent’s view, a nationwide injunction would result any time an enjoined action has potential nationwide effects. Such an approach would turn broad injunctions into the rule rather than the exception. Under our case law, however, all injunctions—even ones involving national policies—must be “narrowly tailored to remedy the specific harm shown.” *Trump*, 897 F.3d at 1244 (quoting *Bresgal*, 843 F.2d at 1170).

We agree with our dissenting colleague that “time does not permit a full exploration of the merits of the ‘nationwide’ issue.” But whereas he believes that such a factor supports the granting of a nationwide injunction until a merits panel can address the case, we reach precisely the opposite conclusion. “National injunctions interfere with good decisionmaking by the federal judiciary.” Samuel L. Bray, *Multiple Chancellors: Reforming the National Injunction*, 131 Harv. L. Rev. 417, 461 (2017). They “deprive” other parties of “the right to litigate in other forums.” *Azar*, 911 F.3d at 583. Based on the briefing and limited record before us, and absent an explanation by the district court as to why a nationwide injunction is necessary to remedy Plaintiffs’ alleged harm in this case, we must grant the motion for stay pending appeal insofar as the injunction applies outside the Ninth Circuit.

Our dissenting colleague also argues that it is “perplexing” that the government’s failure to demonstrate a strong showing of likelihood of success on the merits “does not . . . require that a stay of the nationwide aspect of the injunction [] be denied.” That contention misses the mark, however, by conflating the merits of the government’s position with district court’s authority to issue a nationwide injunction. Whether Appellants have made a strong showing of likelihood of success on the merits entitling them to a stay of the preliminary injunction is a separate question from whether the scope of the injunction is appropriate. In *Azar*, for example, we affirmed the preliminary injunction because, among other things, we found that the plaintiffs were likely to succeed on their claim that the rules were invalid. 911 F.3d at 575–81. Despite our conclusion that the rules were likely invalid, however, we also determined that the injunction’s nationwide scope was not supported by the record. *Id.* at 584–85. *Azar* illustrates that, beyond examining the merits of a party’s arguments, a district court must separately analyze whether nationwide relief is “*necessary* to give prevailing parties the relief to which they are entitled” before issuing such an injunction. *Id.* at 582 (quoting *Bresgal*, 843 F.2d at 1170–71).

Our approach—granting a more limited injunction—allows other litigants wishing to challenge the Rule to do so. Indeed, several already have.<sup>6</sup> Litigation over the Rule’s lawfulness will promote “the development of the law and the percolation of legal issues in the lower courts” and allow the Supreme Court, if it chooses to address the Rule, to do so “[with] the benefit of additional viewpoints from other lower federal courts and [with] a fully developed factual record.”

Amanda Frost, *In Defense of Nationwide Injunctions*, 93 N.Y.U. L. REV. 1065, 1107–08 (2018).<sup>7</sup>

In sum, our decision to partially grant the stay simply upholds the law of our circuit by ensuring that injunctive relief is properly tailored to the alleged harm.<sup>8</sup>

While this appeal proceeds, the district court retains jurisdiction to further develop the record in support of a preliminary injunction extending beyond the

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<sup>6</sup> As Appellants point out, hours before the district court ruled here, a District of Columbia district court, presented with the same Rule, denied materially identical relief to organizations similar to the Plaintiffs here. *See CAIR v. Trump*, No. 1:19-CV-02117-TJK, 2019 WL 3436501 (D.D.C. July 24, 2019).

<sup>7</sup> *Accord United States v. Mendoza*, 464 U.S. 154, 160 (1984) (“[O]nly one final adjudication would deprive this Court of the benefit it receives from permitting several courts of appeals to explore a difficult question.”).

<sup>8</sup> Contrary to the dissent’s position, the fact that injunctive relief may temporarily cause the Rule to be administered inconsistently in different locations is not a sound reason for imposing relief that is broader than necessary. As we explain above, our law requires that injunctive relief be narrowly tailored to remedy the plaintiffs’ alleged harm, and it may only be broadened “if such breadth is necessary to give prevailing parties the relief to which *they* are entitled.” *Bresgal*, 843 F.2d at 1170–71 (emphasis added).

Ninth Circuit. *Cf. Trump*, 897 F.3d at 1245 (“Because the record is insufficiently developed as to the question of the national scope of the injunction, we vacate the injunction to the extent that it applies outside California and remand to the district court for a more searching inquiry into whether this case justifies the breadth of the injunction imposed.”).

The opening brief is due September 3, 2019; the answering brief is due October 1, 2019; and the optional reply is due within 21 days after service of the answering brief. This case will be placed on a December 2019 argument calendar.

FILED

*East Bay Sanctuary Covenant v. Barr*, No. 19-16487

AUG 16 2019

TASHIMA, Circuit Judge, concurring in part and dissenting in part:

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

I concur in the portion of the order denying the motion for stay pending appeal [Dkt. 3] insofar as the injunction applies within the Ninth Circuit, but dissent from the balance of the order.

Acting as a motions panel, all we have before us is the government’s motion for a stay. I do not believe that it is within a motions panel’s province to parse the record for error at this stage, which is what the majority does in concluding that “the nationwide scope of the injunction is not supported by the record as it stands.” (Citation omitted.) But the majority then goes beyond the recognized authority of a motions panel by concluding that “[t]he district court clearly erred by failing to consider whether nationwide relief is necessary to remedy Plaintiffs’ alleged harms,” and, on that basis “grant[s] the motion for stay pending appeal insofar as the injunction applies outside the Ninth Circuit.” It then, in the penultimate paragraph of the Order, in effect, remands the case to the district court for a partial do-over:

While this appeal proceeds, the district court retains jurisdiction to further develop the record in support of a preliminary injunction extending beyond the Ninth Circuit.<sup>1</sup>

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<sup>1</sup> The majority relies on *City & County of San Francisco v. Trump*, 897 F.3d 1225, 1245 (9th Cir. 2018), but the citation is completely inapposite. That  
(continued...)



But vacating and remanding it to the district court for a more searching inquiry into whether this case justifies the breadth of the injunction is indubitably an action within the province of a merits panel—not a motions panel.<sup>2</sup>

At the same time, the order places the merits briefing (of this appeal) on an expedited schedule for placement “on a December 2019 argument calendar.” What issues are the parties expected to brief, assuming that parallel proceedings in the district court are still ongoing? And if the district court completes its second-look remand proceedings within the next few weeks or months and issues a modified injunction, or issues the same nationwide injunction, but one which is supported by supplemental findings of fact, should the parties seek to file supplemental briefs on the newly-raised and newly-decided issues in this appeal to the merits panel assigned to this appeal, or should a new notice of appeal be filed, giving rise to a

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<sup>1</sup>(...continued)

was an opinion by a merits panel charged with deciding the appeal, not a motions panel charged with deciding a stay motion, and the merits panel did exactly what it was charged with, *i.e.*, it decided the appeal; it “AFFIRMED in part; VACATED in pari; and REMANDED.” *Id.* We, as a motions panel, have no equivalent charge.

<sup>2</sup> Because the issue has been decided, applying the clear error standard of review, the injunction vacated and remanded to the district court, the merits panel, presumably has been deprived of deciding this issue. The majority’s assertion, in footnote 2, that its action “does not bind the merits panel,” is an empty promise. Deciding the case on the merits, vacating and remanding the injunction is not in accord with the dictates of *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

new appeal? These are some of the new and difficult questions raised by the majority's split-decision.

While time does not permit a full exploration of the merits of the “nationwide” issue, some problems posed by the majority's Ninth Circuit-only injunction are apparent. Perhaps, the district court did not make detailed findings in support of a nationwide injunction because the need for one in the circumstances of this case is obvious. For starters, the joint interim final rule, “Asylum Eligibility and Procedural Modifications,” will affect asylum applications across the breadth of the southern border. Should asylum law be administered differently in Texas than in California? These issues and problems illustrate why tinkering with the merits on a limited stay motion record can be risky. And it is why such issues are reserved for the more deliberate examination that a merits panel can give them.

There is also a glaring inconsistency—a contradiction—in the majority's split-the-baby approach. If, as the majority and I agree, the government's failure to meet the first *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987), factor—likelihood of success on the merits, because of its failure to comply with the APA—means that its stay motion with respect to the preliminary injunction's application within the Ninth Circuit fails, it is perplexing to me why that failure does not infect the balance of its stay motion and require that a stay of the nationwide aspect of the

injunction also be denied.<sup>3</sup> The majority, in its rush to address the merits of the nationwide aspect of the injunction, simply elides this contradiction.

Because I would not peel off part of the preliminary injunction and remand that portion to the district court, “[b]ecause the record is insufficiently developed as to the question of the national scope of the injunction” (quoting *San Francisco v. Trump*, 897 F.3d at 1245), while retaining jurisdiction over the remainder, I dissent from the remand<sup>4</sup> of the nationwide scope of the preliminary injunction to the district court.

I would simply deny the stay motion.

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<sup>3</sup> The majority’s answer to this point is to state that “Whether Appellants have made a strong showing of likelihood of success on the merits entitling them to a stay of the preliminary injunction is a separate question from whether the scope of the injunction is appropriate.” But that doesn’t answer (or even try to answer) my question of why the government’s failure to meet the likelihood-of-success factor doesn’t doom its motion to stay the nationwide portion of the injunction, as well as the California portion.

<sup>4</sup> The Order does not use the word “remand,” but the majority does not quarrel with the obvious inference from its statement that “the district court retains jurisdiction to further develop the record in support of a preliminary injunction extending beyond the Ninth Circuit,” is, in substance, a remand.

|                            |                             |                     |                           |
|----------------------------|-----------------------------|---------------------|---------------------------|
| _____                      | _____                       | _____               | _____                     |
| District Office Code       | Asylum Office Code          | Alien's File Number | Alien's Last/ Family Name |
| _____                      | _____                       | _____               | _____                     |
| Asylum Officer's Last Name | Asylum Officer's First Name | Alien's Nationality | _____                     |

*All statements in italics must be read to the applicant*

**SECTION I:**

**INTERVIEW PREPARATION**

- 1.1 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.2 \_\_\_\_\_  
Date of arrival [MM/DD/YY] Port of arrival
- 1.3 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.4 \_\_\_\_\_  
Date of detention [MM/DD/YY] Place of detention
- 1.5 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.6 \_\_\_\_\_  
Date of AO orientation [MM/DD/YY] If orientation more than one week from date of detention, explain delay
- 1.7 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.8 \_\_\_\_\_  
Date of interview [MM/DD/YY] Interview site
- 1.9 ☐ Applicant received and signed **Form M-444** and relevant *pro bono* list on \_\_\_\_\_  
Date signed [MM/DD/YY]
- 1.10 Does applicant have consultant(s)? ☐ Yes ☐ No
- 1.11 If yes, consultant(s) name, address, telephone number and relationship to applicant  
\_\_\_\_\_  
\_\_\_\_\_
- 1.12 Persons present at the interview (check which apply)
- 1.13 ☐ Consultant(s)
- 1.14 ☐ Other(s), list: \_\_\_\_\_
- 1.15 ☐ No one other than applicant and asylum officer
- 1.16 Language used by applicant in interview:
- 1.17 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.18 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.19 \_\_\_\_\_ ☐ Yes ☐ No  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.20 ☐ Interpreter **was not changed** during the interview
- 1.21 ☐ Interpreter **was changed** during the interview for the following reason(s):
- 1.22 ☐ Applicant requested a female interpreter replace a male interpreter, or *vice versa*
- 1.23 ☐ Applicant found interpreter was not competent 1.24 ☐ Applicant found interpreter was not neutral
- 1.25 ☐ Officer found interpreter was not competent 1.26 ☐ Officer found interpreter was not neutral
- 1.27 ☐ Bad telephone connection
- 1.28 ☐ Asylum officer read the following paragraph to the applicant at the beginning of the interview:

*The purpose of this interview is to determine whether you may be eligible for asylum or protection from removal to a country where you fear persecution or torture. I am going to ask you questions about why you fear returning to your country or any other country you may be removed to. It is very important that you tell the truth during the interview and that you respond to all of my questions. This may be your only opportunity to give such information. Please feel comfortable telling me why you fear harm. U.S. law has strict rules to prevent the disclosure of what you tell me today about the reasons why you fear harm. The information you tell me about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances. The statements you make today may be used in deciding your claim and in any future immigration proceedings. It is important that we understand each other. If at any time I make a statement you do not understand, please stop me and tell me you do not understand so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain.*

Alien's File Number:

**SECTION II:**

**BIOGRAPHIC INFORMATION**

2.1 \_\_\_\_\_  
Last Name/ Family Name [ALL CAPS]

2.2 \_\_\_\_\_ 2.3 \_\_\_\_\_  
First Name Middle Name

2.4 \_\_\_\_/\_\_\_\_/\_\_\_\_ 2.5 Gender ☐ Male ☐ Female  
Date of birth [MM/DD/YY]

2.6 \_\_\_\_\_  
Other names and dates of birth used

2.7 \_\_\_\_\_ 2.8 \_\_\_\_\_  
Country of birth Country (countries) of citizenship (list all)

2.9 \_\_\_\_\_  
Address prior to coming to the U.S. (List Address, City/Town, Province, State, Department and Country).

2.10 \_\_\_\_\_ 2.11 \_\_\_\_\_ 2.12 \_\_\_\_\_  
Applicant's race or ethnicity Applicant's religion All languages spoken by applicant

2.13 Marital status: ☐ Single ☐ Married ☐ Legally separated ☐ Divorced ☐ Widowed

2.14 Did spouse arrive with applicant? ☐ Yes ☐ No

2.15 Is spouse included in applicant's claim? ☐ Yes ☐ No

2.16 If currently married (including common law marriage) list spouse's name, citizenship, and present location (if with applicant, provide A-Number):  
\_\_\_\_\_  
\_\_\_\_\_

2.17 Children: ☐ Yes ☐ No

2.18 List any children (Use the continuation section to list any additional children):

| Date of birth<br>(MM/DD/YY) | Name  | Citizenship | Present location (if w/PA,<br>list A-Numbers) | Did child<br>arrive with<br>PA?<br><input type="checkbox"/> Yes <input type="checkbox"/> No | Is child<br>included in<br>PA's claim?<br><input type="checkbox"/> Yes <input type="checkbox"/> No |
|-----------------------------|-------|-------------|-----------------------------------------------|---------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |
| _____                       | _____ | _____       | _____                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No                                           |

Alien's File Number:

2.19 Does applicant claim to have a medical condition (physical or mental), or has the officer observed any indication(s) that a medical condition exists? If YES, answer questions 2.20 and 2.21 and explain below. ☐ Yes ☐ No

2.20 Has applicant notified the facility of medical condition? ☐ Yes ☐ No

2.21 Does applicant claim that the medical condition relates to torture? ☐ Yes ☐ No

2.22 Does the applicant have a relative, sponsor or other community ties, including spouse or child already listed above? ☐ Yes ☐ No

2.23 If YES, provide information on relative or sponsor (use continuation section, if necessary):

Name

Relationship

Address

Telephone Number

☐ Citizen ☐ Legal Permanent Resident ☐ Other

**SECTION III:**

**CREDIBLE FEAR INTERVIEW**

**The following notes are not a verbatim transcript of this interview.**

**These notes are recorded to assist the individual officer in making a credible fear determination and the supervisory asylum officer in reviewing the determination.**

**There may be areas of the individual's claim that were not explored or documented for purposes of this threshold screening.**

The asylum officer must elicit sufficient information related to both credible fear of persecution and credible fear of torture to determine whether the applicant meets the threshold screening. Even if the asylum officer determines in the course of the interview that the applicant has a credible fear of persecution, the asylum officer must still elicit any additional information relevant to a fear of torture. Asylum officers are to ask the following questions and may use the continuation sheet if additional space is required. If the applicant replies YES to any question, the asylum officer must ask follow-up questions to elicit sufficient details about the claim in order to make a credible fear determination.

3.1 a. Have you or any member of your family ever been mistreated or threatened by anyone in any country to which you may be returned? ☐ Yes ☐ No

b. Do you have any reason to fear harm from anyone in any country to which you may be returned?

☐ Yes ☐ No

c. If YES to questions a and/or b, was it or is it because of any of the following reasons? (Check each of the following boxes that apply).

☐ Race ☐ Religion ☐ Nationality ☐ Membership in a particular social group ☐ Political Opinion

Alien's File Number:

- 3.2 ☐ At the conclusion of the interview, the asylum officer must read the following to applicant:

*If the Department of Homeland Security determines you have a credible fear of persecution or torture, or, where applicable, a reasonable fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. If the asylum officer determines that you do not have a credible fear of persecution or torture, and, where applicable, you do not have a reasonable fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and, where applicable, you do not have a reasonable fear of persecution or torture, you do not request review, you **may be removed** from the United States as soon as travel arrangements can be made. Do you have any questions?*

- 3.3 ☐ At the conclusion of the interview, the asylum officer must read a summary of the claim, consisting of the responses to Questions 3.1 a-c and information recorded in the Additional Information/Continuation section, to applicant.

\*\*\*\*Typed Question and Answer (Q&A) interview notes and a summary and analysis of the claim must be attached to this form for all negative credible fear decisions. These Q&A notes must reflect that the applicant was asked to explain any inconsistencies or lack of detail on material issues and that the applicant was given every opportunity to establish a credible fear.

#### SECTION IV:

#### CREDIBLE FEAR FINDINGS

##### A. Credible Fear Determination (and reasonable fear determination, where applicable):

###### Credibility

- 4.1 ☐ Applicant found credible.  
4.2 ☐ Applicant found **not** credible.

###### Nexus

- 4.3 ☐ Race 4.4 ☐ Religion 4.5 ☐ Nationality 4.6 ☐ Membership in a Particular Social Group

(Define the social group): \_\_\_\_\_

- 4.7 ☐ Political Opinion 4.8 ☐ Coercive Family Planning [CFP] 4.9 ☐ No Nexus

###### Credible Fear Finding

- 4.10 ☐ Credible fear (or in the case of an alien determined to have no credible fear of persecution because he or she is barred from asylum pursuant to 8 CFR 208.13(c)(4), reasonable fear) of **persecution** established.

**OR**

- 4.11 ☐ Credible fear (or in the case of an alien determined to have no credible fear of persecution because he or she is barred from asylum pursuant to 8 CFR 208.13(c)(4), reasonable fear) of **torture** established.

**OR**

- 4.12 ☐ No fear of persecution or torture established.

##### B. Possible Bars:

- 4.13 ☐ Applicant could be subject to a bar(s) to asylum or withholding of removal (check the box(es) that applies and explain on the continuation sheet):

- 4.14 ☐ Particularly Serious Crime 4.15 ☐ Security Risk 4.16 ☐ Aggravated Felon  
4.17 ☐ Persecutor 4.18 ☐ Terrorist 4.19 ☐ Firmly Resettled  
4.20 ☐ Serious Non-Political Crime Outside the United States  
4.21 ☐ Applicant does **not** appear to be subject to a bar(s) to asylum or withholding of removal.

Alien's File Number:

**C. Identity:**

- 4.22 ☐ Applicant's identity was determined with a reasonable degree of certainty (check the box(es) that applies):
- 4.23 ☐ Applicant's own credible statements. (If testimony is credible overall, this will suffice to establish the applicant's identity with a reasonable degree of certainty).
- 4.24 ☐ Passport which appears to be authentic.
- 4.25 ☐ Other evidence presented by applicant or in applicant's file (List): \_\_\_\_\_
- 4.26 ☐ Applicant's identity was **not** determined with a reasonable degree of certainty. (Explain on the continuation sheet.)

**SECTION V: ASYLUM OFFICER / SUPERVISOR NAMES AND SIGNATURES**

|                                                      |                                         |                                                         |
|------------------------------------------------------|-----------------------------------------|---------------------------------------------------------|
| 5.1 _____<br>Asylum officer name and ID CODE (print) | 5.2 _____<br>Asylum officer's signature | 5.3 ____/____/____<br>Decision date                     |
| 5.4 _____<br>Supervisory asylum officer name         | 5.5 _____<br>Supervisor's signature     | 5.6 ____/____/____<br>Date supervisor approved decision |

**ADDITIONAL INFORMATION/CONTINUATION**

Alien is barred from asylum pursuant to 8 CFR 208.13(c)(4) and therefore the alien has not established a significant possibility of establishing eligibility for asylum and has received a negative credible fear of persecution determination. Alien was then screened for potential entitlement to withholding under INA 241 or CAT protection under a "reasonable possibility of persecution" and "reasonable possibility of torture" standard.



**Memo to File**

**For Alien**

**Barred From Asylum Pursuant to 8 CFR 208.13(c)(4)**

From: **[Asylum Office Name]**

RE: **[Alien name, A#]**

**[Dependent name, A#]**

At the interview:

- The Asylum Officer informed the individual that the officer had determined, based upon the individual's testimony and the other evidence in the record, that the individual is barred from asylum under 8 CFR § 208.13(c)(4), and therefore unable to establish a credible fear with respect to his or her application for asylum.
- As a result of the above determination, the Asylum Officer read the following paragraph to the individual:

The purpose of the remainder of the interview is to determine if you have a reasonable fear of persecution or torture. If it is determined that you have a reasonable possibility of being persecuted or tortured in the country to which you will be ordered removed, you will receive a Notice to Appear for a hearing in immigration court for consideration of your claim for withholding of removal under section 241(b)(3) of the Act, or for withholding or deferral of removal under the Convention Against Torture. If it is determined that you do not have a reasonable possibility of being persecuted or tortured, then you may ask to have an immigration judge review that decision. During that immigration judge review, you may also request review of the determination that you do not have a credible fear of persecution because you are barred from asylum under 8 CFR § 208.13(c)(4).



# U.S. Citizenship and Immigration Services

## Reasonable Fear



U.S. Citizenship  
and Immigration  
Services

Last Updated: August 2019

Unclassified//~~FOUO~~

1

## What is Reasonable Fear (“RF”)?

Applicant must establish a **reasonable fear** of

PERSECUTION

*or*

TORTURE

### STANDARD OF PROOF

Reasonable Possibility



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and Immigration  
Services

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2

## Standard of Proof: Reasonable Possibility

- The “**reasonable possibility**” standard is the same standard required to establish eligibility for asylum (the “**well-founded fear**” standard)
- The “reasonable possibility” standard is lower than the “more likely than not standard” required to establish eligibility for withholding of removal or deferral of removal (under CAT).
- It is higher than the standard of proof required to establish a “credible fear” of persecution.



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3

## RF: Past Persecution Refresher

- Elements:
  - Harm
  - Nexus (“on account of”)
    - Race, Religion, Nationality, Membership in a Particular Social Group, Political Opinion
  - State Action (Government Unable or Unwilling to Control)
- Presumption → Reasonable Fear of Future Persecution
  - Fundamental Change in Circumstances
  - Internal Relocation (safe and reasonable)
- NO humanitarian/discretionary factors:
  - No Other Serious Harm
  - No Severity of Past Harm (*Chen*)



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4

## RF: Future Persecution Refresher

- Elements:
  - Harm
  - Possession
  - Awareness
  - Capability
    - State Action (Government Unable or Unwilling to Control)
  - Inclination
    - (Nexus – “on account of”)
  - Internal Relocation (safe and reasonable)



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5

## RF: Past Torture Refresher

- Elements:
  - Specific Intent
  - Harm (Severe Physical or Mental Pain or Suffering)
  - State Action (Public Official or Other Person Acting in an Official Capacity – Infliction, Instigation, Consent, or Acquiescence)
  - Custody or Physical Control
  - Not Pursuant to Lawful Sanctions
- No Presumption



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6

## RF: Future Torture Refresher

- Elements:
  - Specific Intent
  - Harm (Severe Physical or Mental Pain or Suffering)
  - State Action (Public Official or Other Person Acting in an Official Capacity – Infliction, Instigation, Consent, or Acquiescence)
  - Custody or Control
  - Not Pursuant to Lawful Sanctions
- Evidence to Consider
  - Past Torture
  - Internal Relocation (safe and reasonable)
  - Gross, Flagrant, Mass Human Rights Violations
  - Other Relevant Information



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7





U.S. Citizenship  
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# Third-Country Transit bar



**Guidance for Asylum Officers and  
Asylum Office Staff**

07/16/2019

# Roadmap



U.S. Citizenship  
and Immigration  
Services

- Background/Legal Framework
- Overview of Third-Country Transit Bar
- Exceptions to Bar
- Revised Credible Fear Process
- Mandatory Bar Determination
- Screening Interview and Evidence
- Case Processing
- Post-Decision and Service

FOUO

2

# Background/Legal Framework



U.S. Citizenship  
and Immigration  
Services

- INA §§ 208(b)(2)(C), (d)(5)(B) – Delegation of authority to Attorney General and Secretary of Homeland Security ("Secretary") to promulgate regulations establishing additional bars to asylum
- 8 CFR § 208.13(c)(4) – "Notwithstanding the provisions of 8 CFR 208.15, any alien who enters, attempts to enter, or arrives in the United States across the southern land border on or **after July 16, 2019**, shall be found ineligible for asylum
- 8 CFR § 208.30(e)(5) – "If the alien is found to be an alien described as ineligible for asylum in 8 CFR 208.13(c)(4), then the asylum officer shall enter a negative credible-fear determination with respect to the alien's application for asylum. The Department shall nonetheless place the alien in proceedings under section 240 of the Act for consideration of the alien's claim for withholding of removal under section 241(b)(3) of the Act, or for withholding or deferral of removal under the Convention Against Torture, if the alien establishes, respectively, a reasonable fear of persecution or torture. "

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# Overview of Bar



U.S. Citizenship  
and Immigration  
Services

- With limited exceptions, aliens who enter or attempt to enter the United States across the southern border after failing to apply for protection in a country through which they transited en route to the United States are ineligible for asylum.
- Applies to affirmative asylum applications and credible fear screenings
- Does not modify withholding or deferral of removal proceedings
- Applies only prospectively to aliens who enter or arrive in the United States on or after effective date of this rule.
- Exceptions may apply

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# Exceptions to Bar



U.S. Citizenship  
and Immigration  
Services

- A) Applied for protection in at least one country en route to the United States and received final judgment denying protection in such country
- B) Found to be a "victim of a severe form of trafficking in persons" (8 CFR § 214.11)
- C) En route to the United States only transited through countries were, at the time of transit, not a party to the Refugee Convention/Protocol, or the Convention Against Torture (CAT)

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## Exception A: Application for Protection



U.S. Citizenship  
and Immigration  
Services

- The alien demonstrates that:
  - He or she applied for protection from persecution or torture in at least one country outside of the alien's country of nationality or last habitual residence through which the alien transited en route to the U.S., *and*
  - The alien received a final judgment denying the alien protection in such country.

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## Exception B: Trafficking



U.S. Citizenship  
and Immigration  
Services

- The alien demonstrates that:
  - He or she satisfies the definition of “victim of a severe form of trafficking in persons” provided by 8 CFR 214.11

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## Exception C: Non-Party Transit Countries



U.S. Citizenship  
and Immigration  
Services

- The alien demonstrates that:
  - The only transit countries through which the alien transited en route to the U.S., at the time of transit, were not parties to the
    - 1951 UN Convention Relating to the Status of Refugees;
    - 1967 Protocol Relating to the Status of Refugees; or
    - UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.
- Note: Mexico is a party to the Conventions and Protocol

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## Revised CF Screening for Aliens Subject to the New Asylum Bar



U.S. Citizenship  
and Immigration  
Services

- Under amended 8 CFR 208.30(e)(5), any alien placed into expedited removal who is referred for a CF screening and who is determined to be ineligible for asylum under the new 8 CFR 208.13(c)(4) shall
  - Receive a negative credible fear determination with respect to the alien's intention to apply for asylum; and
  - Have any claim to eligibility for withholding of removal or protection under CAT considered under the reasonable possibility reasonable fear standard **instead of** the significant possibility credible fear standard

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## Credible Fear Process – Jurisdiction and Family Cases



U.S. Citizenship  
and Immigration  
Services

- Jurisdiction: no change
  - Interim Final Rule does not alter the referral process
  - Asylum Office must receive all jurisdictional documents listed at CFPM III.B. prior to adjudicating the case
  - AO and SAO must confirm that the Asylum Division has proper jurisdiction in each case
  
- Family Cases: no change

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## Credible Fear Process—Application of Bar



U.S. Citizenship  
and Immigration  
Services

- Determine if bar applies by completing Third-Country Transit Bar Worksheet
  - *Note: If alien did not enter or attempt to enter the United States across the southern border on or after implementation date, then bar does not apply. Do not fill out a Third-Country Transit Bar Worksheet.*
- If entered by land from Mexico, bar applies unless exception found
- Ensure record supports determination alien entered, attempted to enter, or arrived in the United States *across the southern land border*
- Will need to elicit testimony to determine if bar applies and if there is exception
- Elicit enough testimony to make a determination whether the applicant is a trafficking victim if bar applies and no other exception available to alien

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## Credible Fear Process – Application of Bar - Worksheet



U.S. Citizenship  
and Immigration  
Services

- Did alien enter or attempt to enter the United States across the southern border on or after implementation date?
  - *I-213, I-867A/B, other documents*
  - *Interview*
- Did the individual transit through any country apart from his or her country of nationality (or last habitual residence) en route to the United States?
  - *I-213, I-867A/B, other documents*
  - *Interview*

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## Credible Fear Process– Application of Bar - Worksheet



U.S. Citizenship  
and Immigration  
Services

- If alien transited through at least one country en route that is a party to the Refugee Convention/Protocol or CAT, did alien apply for and was s/he denied protection in at least one such country?
  - *If yes → Exception A found*
- Did the alien establish that s/he meets the definition of "victim of a severe form of trafficking in persons"?
  - *If yes → Exception B found*
- The only countries through which the alien transited en route to the United States, at the time of the transit, were not parties a party to the Refugee Convention/Protocol or CAT?
  - *If yes → Exception C found*

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